

# ***HOUSE RESOURCE AND CONSERVATION COMMITTEE***

## ***ADMINISTRATIVE RULES REVIEW***

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# House Resource and Conservation Committee

## IDAPA 13 - DEPARTMENT OF FISH AND GAME

### 13.01.02 - RULES GOVERNING PUBLIC SAFETY

DOCKET NO. 13-0102-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-103, 36-104(b) and 36-412 Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule clarified that the Hunter Education Program Requirements may be completed through classroom study, home study, or an on-line computer course, and that the Hunter Education Program will be managed by the Department of Fish and Game.**

**There are no changes to the pending rule. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 241 and 242.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

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*The Following Notice Was Published With The Temporary And Proposed Rule*

**EFFECTIVE DATE:** The effective date of the temporary rule is January 26, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-103, 36-104(b) and 36-412, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an

## House Resource and Conservation Committee

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**DEPARTMENT OF FISH AND GAME**  
**Rules Governing Public Safety****Docket No. 13-0102-0401**  
**PENDING RULE**

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agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**To clarify that the Hunter Education Program Requirements may be completed through classroom study, home study, or an on-line computer course, and that the Hunter Education Program will be managed by the Department of Fish and Game.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to hunter education students and to the hunter education program.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking to continue the program without interruption, and the lack of identifiable representatives of affected interests.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Ron Fritz (208) 287-2884.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707  
(208) 334-3715  
Fax (208) 334-2148

## House Resource and Conservation Committee

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**DEPARTMENT OF FISH AND GAME**  
**Rules Governing Public Safety**

**Docket No. 13-0102-0401**  
**PENDING RULE**

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### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### **100. HUNTER EDUCATION.**

**01. Mandatory Hunter Education Program.** All students being certified under this program must have successfully completed at least ten (10) hours of instruction in firearms safety, wildlife management, wildlife law, hunter ethics, first aid/survival, plus practical experience in the handling and shooting of firearms. This instruction may be completed through classroom study, home study, an on-line computer course, or other approved methods. The Department of Fish and Game shall manage the Hunter Education Program pursuant to the Idaho Hunter Education Policy and Procedure Manual. ~~(7-1-93)~~(1-26-04)T

**02. Fees.** A fee as established by Section 36-412(c), Idaho Code, shall be charged each student enrolling in the Hunter Education Program. (3-20-04)

**03. Parent to Attend Live Fire Exercise With Student.** For students under the age of twelve (12), a parent, legal guardian or other adult designated by the parent or legal guardian shall attend the Hunter Education Live Fire Exercise with the student. Preferably, the adult attending the live fire exercise should be the same adult who will accompany the student into the field while hunting. This requirement is mandatory for successful completion of the Hunter Education Course. (3-20-04)

# House Resource and Conservation Committee

## IDAPA 13 - DEPARTMENT OF FISH AND GAME

### 13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b), 36-301 and 36-401 through 36-412, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule would allow for the filing of a nonresident license refund request within one year of the death of a licensee or immediate family, and extend the military personnel refund or raincheck rule for the 2004 season. The proposed rule set the nonresident deer and elk tag quotas.**

**The pending rule has been amended to correct a clerical error in the number of deer tags. The change that was proposed to reduce the number of deer tags in Subsection 600.01.a. has been deleted, and this subsection has been returned to its original language.**

**The pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only the section that has changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 243 through 247.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

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*The Following Notice Was Published With The Temporary And Proposed Rule*

**EFFECTIVE DATE:** The effective date of the temporary rule is March 26, 2004.

## House Resource and Conservation Committee

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**DEPARTMENT OF FISH AND GAME**  
**Rules Governing Licensing****Docket No. 13-0104-0401**  
**PENDING RULE**

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**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 36-104(b), 36-301, and 36-401 through -412, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Allow for the filing of a nonresident license refund request within one year of the death of a licensee or immediate family, and extend the military personnel refund or raincheck rule for the 2004 season. Set the nonresident deer and elk tag quotas.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to license buyers and hunters, and allows license sales to continue uninterrupted.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the lack of identifiable representatives of the license-buying public, the need for license sales to continue uninterrupted, and the need to publish the Season Proclamation Brochures.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Craig Wiedmeier (208) 287-2804.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 11th day of August, 2004.

W. Dallas Burkhalter  
Deputy Attorney General

# House Resource and Conservation Committee

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**DEPARTMENT OF FISH AND GAME**  
**Rules Governing Licensing**

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**Docket No. 13-0104-0401**  
**PENDING RULE**

Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707  
(208) 334-3715  
Fax (208) 334-2148

## THE FOLLOWING IS THE TEXT OF THE PENDING RULE

### 600. NONRESIDENT DEER AND ELK TAG QUOTAS.

**01. Tag Quotas.** The following number of deer tags and elk tags shall be set aside annually and reserved for sale to nonresidents: (3-20-97)

- a. Twelve thousand ~~four~~ eight hundred (12,~~4~~800) regular or Clearwater deer tags; (3-26-04)F( )
- b. Twelve thousand eight hundred fifteen (12,815) A or B elk tags for all zones; (3-20-04)
- c. One thousand two hundred (1,200) S.E. Idaho area Deer tags. (7-1-98)

**02. Exceptions.** Sales of nonresident deer and elk tags to the following persons shall not be counted in the quota: (7-1-93)

- a. Unqualified Residents: Persons who have moved into Idaho and by notarized affidavit show proof of their intent to become bona fide Idaho residents but are not yet qualified to purchase a resident license. (7-1-93)
- b. Designated Buyers: Nonresident tag buyers who return their unused nonresident deer or elk tag and a notarized affidavit stating that the tag buyer has not hunted may designate another nonresident to purchase an additional tag. If the original buyer does not make a designation and has retained an outfitter or guide, the outfitter or guide may make the designation. The designated buyer must pay the regular fee for the replacement tag. If no designation is made by either the original buyer or the outfitter or guide, the Department may sell the replacement tag on a first-come, first-serve basis. (7-1-93)
- c. Successful nonresident controlled hunt applicants who have not purchased a tag as of the date of the controlled hunt drawing. (7-1-93)
- d. Junior mentored tag holders. (3-20-04)

**03. Refunds.** The fee for any nonresident license (as defined in I.C. 36-202(z)) shall not be refunded for any reason except as follows. (7-1-98)

- a. Hunting license and general season deer and elk tag refunds due to death, illness/

## House Resource and Conservation Committee

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### DEPARTMENT OF FISH AND GAME Rules Governing Licensing

Docket No. 13-0104-0401  
**PENDING RULE**

injury or military deployment of licensee. Non-resident general season deer or elk tag fees and prerequisite hunting license fee and controlled hunt deer and elk tag fees may be refunded for death of licensee; illness or injury of licensee which totally disabled the licensee for the entire length of any applicable hunting season; or military deployment of licensee due to an armed conflict. Refund must be substantiated by death certificate, published obituary, written justification by a licensed medical doctor, copy of military orders, or other similar substantiating documents. The hunting license fee will not be refunded if it was used to apply for any controlled hunt or to purchase a turkey, mountain lion, or bear tag. The amount refunded will be the amount of the applicable deer or elk tag and hunting license less all issuance fees and a fifty dollar (\$50) processing fee. The refund request must be postmarked on or before December 31 of the calendar year in which the license and tags were valid. ~~(7-1-98)~~(3-26-04)T

**b.** General season and controlled hunt deer and elk tag refunds for other than death, illness/injury, or military deployment of licensee. Non-resident general season and controlled hunt deer or elk tag fees may be refunded for any reason other than death of the licensee; illness or injury of licensee which totally disables the licensee for the entire length of all applicable seasons; or military deployment of licensee due to an armed conflict. The request for the refund must be postmarked in the year in which the tag is valid. The hunting license fee will not be refunded. The refund will be based on the following sliding scale as a percent of the deer or elk tag fee.

Postmarked	Percent of Fee Refunded
Before April 1	75%
in April through June	50%
in July and August	25%
September through December	0%

~~(7-1-98)~~(3-26-04)T

**c.** Department Error. The department determines that a department employee made an error in the issuance of the license. (7-1-98)

**d.** Submission Requirements. All refund requests must be in writing and be accompanied with the original copy of the license or tag. (7-1-98)

**e.** Effective. These changes will be effective with the 1997 licenses and tags. (7-1-98)

**04. Sale of Unsold Nonresident Deer and Elk Tags to Residents.** Any unsold nonresident deer or elk tags may be sold to residents and to nonresidents as a second tag, at the nonresident deer or elk tag price, beginning September 1. All privileges and restrictions associated with the use of the nonresident deer or elk tag will apply equally to residents who purchase a nonresident deer or elk tag. (3-15-02)

**05. S.E. Idaho License/Tag Application and Drawing.** (3-20-04)



## House Resource and Conservation Committee

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**DEPARTMENT OF FISH AND GAME**  
**Rules Governing Licensing****Docket No. 13-0104-0401**  
**PENDING RULE**

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- a.** Nonresidents must submit application to the Idaho Department of Fish and Game headquarters license section to be eligible to receive an Idaho S.E. deer tag. The application period will be for the two (2) consecutive months from December 1 through January 31, and received by the license section no later than February 5 for the current year's license. The Idaho Department of Fish and Game is not responsible for lost or late applications. (3-20-04)
- b.** Applications must be submitted on a department-approved form. (3-20-04)
- c.** Only those eligible to purchase an Idaho hunting license at the time of application are eligible to apply for the S.E. deer tag. (3-20-04)
- d.** A nonrefundable application fee of six dollars and fifty cents (\$6.50) must be submitted with the application. (3-20-04)
- e.** At the time of application, the applicant must submit the nonrefundable application fee, the hunting license fees (if applicable), and the fees for the S.E. deer tag. Those successful in the drawing will receive the appropriate hunting license (if applicable) and the S.E. deer tag. Those who are unsuccessful will receive a refund of the license fee (if applicable) and the S.E. deer tag fees. (3-20-04)
- f.** Group applications may be submitted. A group application may consist of up to four (4) individuals. All required information must be submitted in the same envelope to be considered as a group application. If a group application is selected in the random drawing, then each applicant will receive a hunting license (if applicable) and a S.E. deer tag. (3-20-04)
- g.** Applications received after the deadline will be processed through the drawing but will be ineligible to draw. The appropriate license and tag fees will be refunded. (3-20-04)
- h.** Applications with insufficient fees will be processed through the drawing but will be ineligible to draw. The appropriate license and tag fees will be refunded (if applicable). (3-20-04)
- i.** Computer drawing: To ensure fairness to all applicants, the drawing will be conducted using the existing department controlled hunt drawing processes. A random computer selection will determine successful applicants. If the applicant is successful, the license (if applicable) and deer tag will be issued and mailed to the customer within fifteen (15) days of the drawing date. License (if applicable) and tag fees will be refunded to unsuccessful applicants in the form of a state warrant. All refunds will be issued in the name of the applicant, regardless of who submitted the original payment for the application. (3-20-04)
- j.** Those applying for the S.E. deer tag will not affect their ability to apply for controlled hunts. (3-20-04)
- k.** Those unsuccessful in drawing a S.E. deer tag will be placed on a waiting list randomly in case the department receives returned unused tags for refunds or controlled hunt exchanges. These tags will be sold to the individuals on the list in order of standing on the waiting list. (3-20-04)

## House Resource and Conservation Committee

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### DEPARTMENT OF FISH AND GAME Rules Governing Licensing

Docket No. 13-0104-0401  
PENDING RULE

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1. All other existing refund rules apply to those who have successfully drawn and have been issued the S.E. Idaho deer tag. (3-20-04)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 602. SPECIAL OPERATION IRAQI FREEDOM REFUND AND RAIN CHECK.

01. **2003~~4~~ Special Refund and Rain Check Rule.** This special refund and rain check rule applies only to the 2003~~4~~ hunting season. Because of military deployment to Operation Iraqi Freedom, some hunters will be unable to hunt big game animals for which they purchased tags in the state of Idaho. ~~(3-20-04)~~(3-26-04)T

02. **2004~~5~~ Special Refund and Rain Check Eligibility.** Hunters who have purchased tags and who can show in good faith they could not participate in hunting activities due to military deployment for Operation Iraqi Freedom will be eligible for a refund or rain check for license and tags for the 2004~~5~~ hunting season as outlined in this rule. ~~(3-20-04)~~(3-26-04)T

03. **General Season Tag.** Holders of a general season tag for deer or elk may request: (3-20-04)

a. A refund of the hunting license and tag fee; (3-20-04)

b. A rain check for a hunting license and same tag for the 2004~~5~~ hunting season; or ~~(3-20-04)~~(3-26-04)T

c. An exchange in 2003~~4~~ for a tag in another zone or area so long as tags are available in that area or zone. ~~(3-20-04)~~(3-26-04)T

04. **Controlled Hunt Permit and Tag.** Holders of a controlled hunt permit and tag for deer, elk, or antelope may request: (3-20-04)

a. A refund of the hunting license, controlled hunt permit, and tag fee; (3-20-04)

b. A rain check for a hunting license, controlled hunt permit, and tag for the same controlled hunt in the 2004~~5~~ hunting season; or ~~(3-20-04)~~(3-26-04)T

c. An exchange in 2003~~4~~ for a hunting license and a general season tag in another zone or area so long as tags are available in that area or zone. ~~(3-20-04)~~(3-26-04)T

05. **Nonresident Bear or Mountain Lion Tags.** Holders of nonresident bear or mountain lion tags may request: (3-20-04)

a. A refund of the hunting license and tag fee; or (3-20-04)

b. A rain check for a hunting license and tag for the 2004~~5~~ hunting season.

## House Resource and Conservation Committee

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### DEPARTMENT OF FISH AND GAME Rules Governing Licensing

Docket No. 13-0104-0401  
**PENDING RULE**

~~(3-20-04)~~(3-26-04)T

**06. Moose, Bighorn Sheep, or Mountain Goat Controlled Hunt Permits.** Holders of moose, bighorn sheep, or mountain goat controlled hunt permits may request: (3-20-04)

**a.** A refund of the hunting license, controlled hunt permit, and controlled hunting tag fee; or (3-20-04)

**b.** A rain check for a hunting license, controlled hunt permit, and controlled hunt tag for the 20045 hunting season. ~~(3-20-04)~~(3-26-04)T

**07. Ineligible to Request Tag or Permit Refund or Rain Check.** If the person hunts a species of wildlife before requesting a refund or rain check, then the tag or permit fee for that species will not be refunded or eligible for a rain check for the 20045 season. ~~(3-20-04)~~(3-26-04)T

**08. Ineligible to Request License Fee Refund or Rain Check.** If the person hunts for any species during the 20034 season before requesting a refund or rain check, then the hunting license fee will not be refunded or eligible for a rain check for the 20045 season. ~~(3-20-04)~~(3-26-04)T

**09. Rain Check Requests Must be for Same Species.** All rain check requests must be made for the same species. For example, a deer tag will not be eligible for a rain check of an elk tag in the 20045 next season. ~~(3-20-04)~~(3-26-04)T

**10. Refunds Will be for the Amount Paid.** All refunds will be for the amount the person paid for the hunting license or tag. (3-20-04)

**11. Use of Department-Approved Form for Rain Check or Refund Request.** Resident and nonresident military personnel who have purchased general season tags or controlled hunt tags and are unable to participate in any hunting activities due to military deployment must submit a request for a refund or rain check on the department-approved form (found on Idaho Fish and Game website [www2.state.id.us/fishgame](http://www2.state.id.us/fishgame)) by January 1, 20045, along with a copy of their deployment papers, or a letter from their commanding officers stating the dates the individual was deployed for duty in Operation Iraqi Freedom. Those requests received after this date will not be eligible for the special refund or rain check. ~~(3-20-04)~~(3-26-04)T

## House Resource and Conservation Committee

### IDAPA 13 - DEPARTMENT OF FISH AND GAME

#### 13.01.06 - RULES GOVERNING CLASSIFICATION AND PROTECTION OF WILDLIFE

DOCKET NO. 13-0106-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-201, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule updated classification lists which had not been updated for some time. The lists need to be kept current because they are referenced in various aspects of Department activities such as Scientific Collecting Permits and requests from other state and federal agencies, nongovernmental organizations, consulting businesses, and individuals.**

**The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 248 through 258.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

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*The Following Notice Was Published With The Temporary And Proposed Rule*

**EFFECTIVE DATE:** The effective date of the temporary rule is March 15, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-201, Idaho Code.

## House Resource and Conservation Committee

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**DEPARTMENT OF FISH AND GAME**  
**Rules Governing Classification & Protection of Wildlife**

**Docket No. 13-0106-0401**  
**PENDING RULE**

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**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**The classification lists have not been updated for some time. The lists need to be kept current because they are referenced in various aspects of Department activities such as Scientific Collecting Permits and requests from other state and federal agencies, nongovernmental organizations, consulting businesses, and individuals.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit by updating the wildlife classification lists.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking to update the classification lists, and the lack of identifiable representatives of affected interests.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Chuck Harris (208) 287-4747.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 5th day of August, 2004.

W. Dallas Burkhalter, Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut - P.O. Box 25  
Boise, Idaho 83707  
(208) 334-3715 / Fax (208) 334-2148

## House Resource and Conservation Committee

**DEPARTMENT OF FISH AND GAME**  
**Rules Governing Classification & Protection of Wildlife**

**Docket No. 13-0106-0401**  
**PENDING RULE**

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

**000. LEGAL AUTHORITY.**

The Idaho Fish and Game Commission is authorized under Sections 36-104(b) and 36-201, Idaho Code, to adopt rules concerning the taking of wildlife species and the classification of all wildlife in the state of Idaho. (3-15-04)T

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited in full as IDAPA 13.01.06.000, et seq., Rules of the Idaho Fish and Game Commission, IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife”. (3-15-04)T

**02. Scope.** These rules establish the classification and protection of wildlife. (3-15-04)T

**002. WRITTEN INTERPRETATIONS.**

This agency has no written interpretations of these rules. (3-15-04)T

**003. ADMINISTRATIVE APPEAL.**

All contested cases shall be governed by the provisions of IDAPA 13.01.01, “Rules of Practice and Procedure of the Idaho Fish and Game Commission,” and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General”. (3-15-04)T

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into this rule. (3-15-04)T

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Department of Fish and Game is in Boise, Idaho. The office is located at 600 South Walnut, Boise, Idaho, and is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is P.O. Box 25, Boise, Idaho 83707. (3-15-04)T

**0006. -- 099. (RESERVED).**

**100. CLASSIFICATION OF WILDLIFE.**

- 01. Big Game Animals.** (7-1-93)
  - a.** Black bear - *Ursus americanus*. (7-1-93)
  - b.** California bighorn sheep - *Ovis canadensis californiana*. (7-1-93)
  - c.** Elk - *Cervus elaphus*. (7-1-93)
  - d.** Gray wolf - *Canis lupus* (3-15-04)T
  - ~~e.~~** Moose - *Alces alces*. (7-1-93)

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- f. Mountain goat - *Oreamnos americanus*. (7-1-93)
- g. Mountain lion - ~~*Felis*~~ *Puma concolor*. (~~7-1-93~~)(3-15-04)T
- h. Mule deer - *Odocoileus hemionus*. (7-1-93)
- i. Pronghorn antelope - *Antilocapra americana*. (7-1-93)
- j. Rocky Mountain bighorn sheep - *Ovis canadensis canadensis*. (7-1-93)
- k. White-tailed deer - *Odocoileus virginianus*. (7-1-93)
- 02. Upland Game Animals. (7-1-93)
  - a. ~~Nuttall's~~ Mountain cottontail - *Sylvilagus nuttallii*. (~~7-1-93~~)(3-15-04)T
  - b. Pygmy rabbit - *Brachylagus idahoensis*. (7-1-93)
  - c. Snowshoe hare - *Lepus americanus*. (7-1-93)
- 03. Game Birds. Game birds includes both upland game birds and migratory game birds. (7-1-93)
  - a. Upland Game Birds. (7-1-93)
    - i. Pheasants: Chinese or ring-necked pheasant *Phasianus colchicus*; Mongolian pheasant; mutant pheasant; Japanese green pheasant; or any hybrids thereof-*Phasianus spp.*. (~~7-1-93~~)(3-15-04)T
    - ii. Partridge: gray (Hungarian) partridge, *Perdix perdix*; chukar, *Alectoris chukar*; and ~~French~~ ~~Red~~-legged partridge, *Alectoris rufa*. (~~7-1-93~~)(3-15-04)T
    - iii. Quail: northern bobwhite, *Colinus virginianus*; California quail, *Callipepla californica*; mountain quail, *Oreortyx pictus*; and Gambel's quail, *Callipepla gambelii*. (7-1-93)
    - iv. Grouse: Blue grouse, *Dendragapus obscurus*; ruffed grouse, *Bonasa umbellus*; spruce grouse, ~~*Dendragapus*~~ *Falcapennis canadensis*; ~~Greater~~ sage grouse, *Centrocercus urophasianus*; and Columbian sharp-tailed grouse, *Tympanuchus phasianellus columbianus*. (~~7-1-93~~)(3-15-04)T
    - v. Wild turkey: Rio Grande, *Meleagris gallopavo intermedia*; Merriam's, *M. g. merriami*; and Eastern, *M. g. silvestris*. (~~7-1-93~~)(3-15-04)T
  - b. Migratory Game Birds: (7-1-93)
    - i. ~~Coot~~: American coot, *Fulica americana*. (~~7-1-93~~)(3-15-04)T

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- ii. ~~Dove: m~~ Mourning dove, *Zenaida macroura*. (7-1-93)(3-15-04)T
- iii. Ducks: American black duck, *Anas rubripes*; bufflehead, *Bucephala albeola*; canvasback, *Aythya valisineria*; gadwall, *Anas strepera*; Barrow's goldeneye, *Bucephala islandica*; common goldeneye, *Bucephala clangula*; harlequin duck, *Histrionicus histrionicus*; mallard, *Anas platyrhynchos*; common merganser, *Mergus merganser*; hooded merganser, *Lophodytes cucullatus*; red-breasted merganser, *Mergus serrator*; ~~oldsquaw~~ long-tailed duck, *Clangula hyemalis*; northern pintail, *Anas acuta*; redhead, *Aythya americana*; ring-necked duck, *Aythya collaris*; ruddy duck, *Oxyura jamaicensis*; greater scaup, *Aythya marila*; lesser scaup, *Aythya affinis*; surf scoter, *Melanitta perspicillata*; white-winged scoter, *Melanitta fusca*; northern shoveler, *Anas clypeata*; blue-winged teal, *Anas discors*; cinnamon teal, *Anas cyanoptera*; green-winged teal, *Anas crecca*; American wigeon, *Anas americana*; ~~European~~ Eurasian wigeon, *Anas penelope*; and wood duck, *Aix sponsa*. (7-1-93)(3-15-04)T
- iv. ~~Brant: black brant, Branta bernicla.~~ (7-1-93)
- iv. Geese: Brant, *Branta bernicla*; Canada goose, *Branta canadensis*; emperor goose, *Chen canagica*; Ross's goose, *Chen rossii*; snow goose, *Chen caerulescens*; and greater white-fronted goose, *Anser albifrons*. (7-1-93)(3-15-04)T
- vi. Swans: Trumpeter swan, ~~Old~~ *Cygnus buccinator*; and Tundra swan, ~~Old~~ *Cygnus columbianus*. (7-1-93)(3-15-04)T
- vi. ~~Snipe: Common, Capella~~ Wilson's snipe - ~~g~~ *Gallinago delicata*. (7-1-93)(3-15-04)T
- viii. Greater ~~s~~ Sandhill ~~e~~ Crane: *Grus canadensis*. (7-1-93)(3-15-04)T
- c. American Crow - *Corvus brachyrhynchos*. (3-15-04)T
- 04. **Game Fish.** Game fish includes the following fish, bullfrog and crayfish: (2-23-94)
  - a. American shad - *Alosa sapidissim*. (7-1-93)
  - b. ~~American smelt - *Osmerus mordax*.~~ (7-1-93)
  - e. ~~Arctic char, blueback trout - *Salvelinus alpinus*.~~ (2-23-94)
  - ab. Arctic grayling - *Thymallus arcticus*. (7-1-93)
  - ec. Atlantic salmon - *Salmo salar*. (7-1-93)
  - d. Bear Lake cutthroat trout - *Oncorhynchus clarki sp*. (3-15-04)T
  - fe. Bear Lake whitefish - *Prosopium abyssicola*. (7-1-93)
  - gf. Black bullhead - ~~Ictalurus~~ Ameirus *melas*. (7-1-93)(3-15-04)T



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<del>h</del> g.	Black crappie - <i>Pomoxis nigromaculatus</i> .	(7-1-93)
<del>i</del> h.	Blue Catfish - <i>Ictalurus furcatus</i> .	<del>(7-1-93)</del> (3-15-04)T
<del>i</del> .	Blueback trout - <i>Salvelinus alpinus oquassa</i> .	(3-15-04)T
j.	Bluegill - <i>Lepomis macrochirus</i> .	(7-1-93)
<del>k</del> .	Bluegill/Pumpkinseed - <i>L. macrochirus x L. gibbosus</i> hybrid.	(3-15-04)T
<del>k</del> l.	Bonneville cisco - <i>Prosopium gemmiferum</i> .	(7-1-93)
<del>m</del> .	Bonneville cutthroat trout - <i>Oncorhynchus clarki utah</i> .	(3-15-04)T
<del>h</del> n.	Bonneville whitefish - <i>Prosopium spilonotus</i> .	(7-1-93)
<del>m</del> o.	Brook trout - <i>Salvelinus fontinalis</i> .	(7-1-93)
<del>m</del> p.	Brown bullhead - <del><i>Ictalurus</i></del> <i>Ameiurus nebulosus</i> .	<del>(7-1-93)</del> (3-15-04)T
<del>o</del> q.	Brown trout - <i>Salmo trutta</i> .	(7-1-93)
<del>p</del> r.	Bull trout - <i>Salvelinus confluentus</i> .	(7-1-93)
<del>q</del> s.	Bullfrog - <i>Rana catesbeiana</i> .	(7-1-93)
<del>r</del> t.	Burbot, Ling - <i>Lota lota</i> .	(7-1-93)
<del>u</del> .	California golden trout - <i>Oncorhynchus mykiss aguabonita</i> .	(3-15-04)T
<del>s</del> v.	Channel catfish - <i>Ictalurus punctatus</i> .	(7-1-93)
<del>t</del> w.	Chinook salmon - <i>Oncorhynchus tshawytscha</i> .	(7-1-93)
<del>m</del> x.	Coho salmon - <i>Oncorhynchus kisutch</i> .	(7-1-93)
<del>r</del> y.	Crayfish - <i>Pacifastacus sp.</i> (3 species).	(2-23-94)
<del>w</del> z.	Cutthroat trout - <i>Oncorhynchus clarki</i> .	(7-1-93)
<del>aa</del> .	Finespotted cutthroat trout (Snake River) - <i>Oncorhynchus clarki sp.</i>	(3-15-04)T
<del>x</del> bb.	Flathead catfish - <i>Pylodictis olivaris</i> .	(7-1-93)
<del>y</del> .	<del>Golden trout - <i>Oncorhynchus aguabonita</i>.</del>	<del>(7-1-93)</del>
<del>z</del> cc.	Green sunfish - <i>Lepomis cyanellus</i> .	(7-1-93)

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<del>dd</del> .	Kokanee - <i>Oncorhynchus nerka kennerlyi</i> .	(3-15-04)T
<del>ee</del> .	Lahotan cutthroat trout - <i>Oncorhynchus clarki henshawi</i> .	(3-15-04)T
<del>aaff</del> .	Lake trout, Mackinaw - <i>Salvelinus namaycush</i> .	(7-1-93)
<del>bbgg</del> .	Lake whitefish - <i>Coregonus clupeaformis</i> .	(7-1-93)
<del>eehh</del> .	Largemouth bass - <i>Micropterus salmoides</i> .	(7-1-93)
<del>ddii</del> .	Mountain whitefish - <i>Prosopium williamsoni</i> .	(7-1-93)
<del>eejj</del> .	Northern pike - <i>Esox lucius</i> .	(7-1-93)
<del>ffkk</del> .	Pumpkinseed - <i>Lepomis gibbosus</i> .	(7-1-93)
<del>ggll</del> .	Pygmy whitefish - <i>Prosopium coulteri</i> .	(7-1-93)
<del>hhmm</del> .	Rainbow trout - <i>Oncorhynchus mykiss</i> .	(7-1-93)
<del>nn</del> .	Redband trout - <i>Oncorhynchus mykiss gairdneri</i> .	(3-15-04)T
<del>ii</del> <del>oo</del> .	Rainbow/cutthroat trout - <i>O. mykiss</i> x <i>O. clarki</i> hybrid.	(2-23-94)
<del>jjpp</del> .	Sauger - <i>Stizostedion canadense</i> .	(7-1-93)
<del>kkqq</del> .	Smallmouth bass - <i>Micropterus dolomieu</i> .	(7-1-93)(3-15-04)T
<del>hhrr</del> .	Splake - <i>S. namaycush</i> x <i>S. fontinalis</i> hybrid.	(2-23-94)
<del>mmss</del> .	Sockeye salmon, <del>kokanee</del> - <i>Oncorhynchus nerka</i> .	(7-1-93)(3-15-04)T
<del>nn</del> <del>tt</del> .	Steelhead trout - <i>Oncorhynchus mykiss gairdneri</i> .	(7-1-93)(3-15-04)T
<del>oo</del> <del>uu</del> .	Tiger muskie - <i>Esox lucius</i> x <i>Esox masquinongy</i> hybrid.	(7-1-93)
<del>ppvv</del> .	Walleye - <i>Stizostedion vitreum</i> .	(7-1-93)
<del>qqww</del> .	Warmouth - <i>Lepomis gulosus</i> .	(7-1-93)
<del>xx</del> .	Westslope cutthroat trout - <i>Oncorhynchus clarki lewisi</i> .	(3-15-04)T
<del>rr</del> <del>vy</del> .	White crappie - <i>Pomoxis annularis</i> .	(7-1-93)
<del>sszz</del> .	White sturgeon - <i>Acipenser transmontanus</i> .	(7-1-93)
<del>aaa</del> .	Yellow bullhead - <i>Ameiurus natalis</i> .	(3-15-04)T

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- ~~#bbb.~~ Yellow perch - *Perca flavescens*. (7-1-93)
- ~~ccc.~~ Yellowstone cutthroat trout - *Oncorhynchus clarki bouvieri*. (3-15-04)T
- ~~05.~~ ~~Migratory Birds.~~ Common American crow - *Corvus brachyrhynchos*. (7-1-93)
- ~~065.~~ Furbearing Animals. (7-1-93)
- a. American ~~B~~badger - *Taxidea taxus*. (7-1-93)(3-15-04)T
- ~~fb.~~ American ~~M~~marten - *Martes americana*. (7-1-93)(3-15-04)T
- ~~gc.~~ American ~~M~~mink - *Mustela vison*. (7-1-93)(3-15-04)T
- ~~bd.~~ Beaver - *Castor canadensis*. (7-1-93)
- ~~ee.~~ Bobcat - ~~Felis~~ *Lynx rufus*. (7-1-93)(3-15-04)T
- ~~ef.~~ Canada ~~L~~lynx - ~~Felis~~ *Lynx canadensis*. (7-1-93)(3-15-04)T
- ~~hg.~~ Common ~~M~~muskrat - *Ondatra zibethicus*. (7-1-93)(3-15-04)T
- ~~kh.~~ Common ~~R~~raccoon - *Procyon lotor*. (7-1-93)(3-15-04)T
- ~~di.~~ Fisher - *Martes pennanti*. (7-1-93)
- j. Northern river ~~O~~otter - ~~Lutra~~ *Lontra canadensis*. (7-1-93)(3-15-04)T
- ~~fk.~~ Red fox - *Vulpes vulpes*-includes all color phases found in Idaho. (7-1-93)
101. -- 149. (RESERVED).
150. ~~SPECIES OF SPECIAL CONCERN,~~ THREATENED OR ENDANGERED SPECIES.
01. Definitions. (7-1-93)
- a. Endangered-~~Species~~: Any native species in danger of extinction throughout all or a significant portion of its Idaho range. (7-1-93)(3-15-04)T
- b. ~~Peripheral Species: A species of special concern which has populations in Idaho that are on the edge of a breeding range that falls largely outside Idaho.~~ Threatened Species: Any native species likely to be classified as Endangered within the foreseeable future throughout all or a significant portion of its Idaho range. (7-1-93)(3-15-04)T
- ~~c.~~ ~~Priority Species: A species of special concern for which Idaho presently constitutes or formerly constituted a significant portion of its range.~~ (7-1-93)

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~~d.~~ *Species:* includes any subspecies of fish or wildlife or plants and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature. (7-1-93)

~~e.~~ *Species of Special Concern:* Native Idaho species which are either low in numbers, limited in distribution, or have suffered significant habitat losses. (7-1-93)

~~f.~~ *Threatened Species:* Any species likely to be classified as Endangered within the foreseeable future throughout all or a significant portion of its Idaho range. (7-1-93)

~~g.~~ *Undetermined Status Species:* A species of special concern that may be rare in Idaho, but for which there is little information on population status, distribution and/or habitat requirements. (7-1-93)

### 02. Endangered Species. (7-1-93)

~~a.~~ *Bald eagle – Haliaeetus leucocephalus.* Burbot, Ling - Lota lota. (7-1-93)(3-15-04)T

~~b.~~ *Caribou – Rangifer tarandus.* (7-1-93)

~~c.~~ *Chinook salmon, fall – Oncorhynchus tshawytscha.* (7-1-93)

~~d.~~ *Cutthroat trout, Bonneville – Oncorhynchus clarki utah.* (7-1-93)

~~e.~~ *Gray wolf – Canis lupus.* (7-1-93)

~~fb.~~ *Pacific lamprey - Lampetra tridentata.* (7-1-93)

~~g.~~ *Peregrine falcon – Falco peregrinus.* (7-1-93)

~~hc.~~ *Sockeye salmon - Oncorhynchus nerka.* (7-1-93)

~~id.~~ *White sturgeon (Kootenai River population) - Acipenser transmontanus.* (7-1-93)

~~be.~~ *Woodland Caribou - Rangifer tarandus caribou.* (7-1-93)(3-15-04)T

~~j.~~ *Whooping crane – Grus americana.* (7-1-93)

### 03. Threatened Species. (7-1-93)

~~a.~~ *Burbot, Ling – Lota lota.* Bald eagle - Haliaeetus leucocephalus. (7-1-93)(3-15-04)T

~~gb.~~ *Bull trout - Salvelinus confluentus.* (7-1-93)

~~c.~~ *Canada lynx - Lynx canadensis.* (3-15-04)T

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- bd.** Chinook salmon, spring, ~~and~~ summer, and fall - *Oncorhynchus tshawytscha*. (7-1-93)(3-15-04)T
- ee.** Grizzly bear - *Ursus arctos horribilis*. (7-1-93)(3-15-04)T
- f.** Northern Idaho ground squirrel - *Spermophilus brunneus brunneus*. (3-15-04)T
- g.** Peregrine falcon - *Falco peregrinus*. (3-15-04)T
- h.** Steelhead trout (Snake River) - *Oncorhynchus mykiss gairdneri* (3-15-04)T
- 04.** ~~Priority Species.~~ (7-1-93)
- a.** ~~American white pelican—Pelecanus erythrorhynchos.~~ (7-1-93)
- b.** ~~Bear Lake sculpin—Cottus extensus.~~ (7-1-93)
- c.** ~~Bear Lake whitefish—Prosopium abyscicola.~~ (7-1-93)
- d.** ~~Bonneville cisco—Prosopium gemmiferum.~~ (7-1-93)
- e.** ~~Bonneville whitefish—Prosopium spilonotus.~~ (7-1-93)
- f.** ~~Boreal owl—Aegolius funereus.~~ (7-1-93)
- g.** ~~Bull trout—Salvelinus confluentus.~~ (7-1-93)
- h.** ~~Common loon—Gavia immer.~~ (7-1-93)
- i.** ~~Coeur d'Alene salamander—Plethodon vandykei idahoensis.~~ (7-1-93)
- j.** ~~Cutthroat trout, Bear Lake—Oncorhynchus clarki ssp.~~ (7-1-93)
- k.** ~~Cutthroat trout, Snake River fine-spotted—Oncorhynchus clarki ssp.~~ (7-1-93)
- l.** ~~Cutthroat trout, Westslope—Oncorhynchus clarki lewisi.~~ (7-1-93)
- m.** ~~Cutthroat trout, Yellowstone—Oncorhynchus clarki bouvieri.~~ (7-1-93)
- n.** ~~Ferruginous hawk—Buteo regalis.~~ (7-1-93)
- o.** ~~Fisher—Martes pennanti.~~ (7-1-93)
- p.** ~~Harlequin duck—Histrionicus histrionicus.~~ (7-1-93)
- q.** ~~Idaho ground squirrel—Spermophilus brunneus.~~ (7-1-93)
- r.** ~~Mountain quail—Oreortyx pictus.~~ (7-1-93)

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<del>s.</del>	<del>Redband trout—<i>Oncorhynchus mykiss</i> ssp.</del>	<del>(7-1-93)</del>
<del>t.</del>	<del>Shoshone sculpin—<i>Cottus greeniei</i>.</del>	<del>(7-1-93)</del>
<del>u.</del>	<del>Steelhead trout—<i>Oncorhynchus mykiss</i>.</del>	<del>(7-1-93)</del>
<del>v.</del>	<del>Trumpeter swan—<i>Cygnus buccinator</i>.</del>	<del>(7-1-93)</del>
<del>w.</del>	<del>Upland sandpiper—<i>Bartramia longicauda</i>.</del>	<del>(7-1-93)</del>
<del>x.</del>	<del>White sturgeon (Snake/Salmon River populations)—<i>Acipenser transmontanus</i>.</del>	<del>(7-1-93)</del>
<del>y.</del>	<del>Wolverine—<i>Gulo gulo</i>.</del>	<del>(7-1-93)</del>
<del>z.</del>	<del>Wood River sculpin—<i>Cottus leiopomus</i>.</del>	<del>(7-1-93)</del>
<b>05.</b>	<b><i>Peripheral Species.</i></b>	<del>(7-1-93)</del>
<del>a.</del>	<del>Cliff chipmunk—<i>Tamias dorsalis</i>.</del>	<del>(7-1-93)</del>
<del>b.</del>	<del>Coast mole—<i>Scapanus orarius</i>.</del>	<del>(7-1-93)</del>
<del>c.</del>	<del>Dark kangaroo mouse—<i>Microdipodops megacephalus</i>.</del>	<del>(7-1-93)</del>
<del>d.</del>	<del>Great egret—<i>Casmerodius albus</i>.</del>	<del>(7-1-93)</del>
<del>e.</del>	<del>Kit fox—<i>Vulpes macrotis</i>.</del>	<del>(7-1-93)</del>
<del>f.</del>	<del>Little pocket mouse—<i>Perognathus longimembris</i>.</del>	<del>(7-1-93)</del>
<del>g.</del>	<del>Lynx—<i>Felis lynx</i>.</del>	<del>(7-1-93)</del>
<del>h.</del>	<del>Merlin—<i>Falco columbarius</i>.</del>	<del>(7-1-93)</del>
<del>i.</del>	<del>Mojave black-collared lizard—<i>Crotaphytus bicinctores</i>.</del>	<del>(7-1-93)</del>
<del>j.</del>	<del>Northern bog lemming—<i>Synaptomys borealis</i>.</del>	<del>(7-1-93)</del>
<del>k.</del>	<del>Rock squirrel—<i>Spermophilus variegatus</i>.</del>	<del>(7-1-93)</del>
<del>l.</del>	<del>Uinta chipmunk—<i>Tamias umbrinus</i>.</del>	<del>(7-1-93)</del>
<del>m.</del>	<del>Western ground snake—<i>Sonora semiannulata</i>.</del>	<del>(7-1-93)</del>
<del>n.</del>	<del>Wood frog—<i>Rana sylvatica</i>.</del>	<del>(7-1-93)</del>

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<del>n.</del>	<del>Yellow-billed cuckoo—Coccyzus americanus.</del>	<del>(7-1-93)</del>
<del>06.</del>	<del>Undetermined Status Species.</del>	<del>(7-1-93)</del>
<del>a.</del>	<del>Barred owl—Strix varia.</del>	<del>(7-1-93)</del>
<del>b.</del>	<del>Black-billed cuckoo—Coccyzus erythrophthalmus.</del>	<del>(7-1-93)</del>
<del>c.</del>	<del>California myotis—Myotis californicus.</del>	<del>(7-1-93)</del>
<del>d.</del>	<del>Flammulated owl—Otus flammeolus.</del>	<del>(7-1-93)</del>
<del>e.</del>	<del>Fringed myotis—Myotis thysanodes.</del>	<del>(7-1-93)</del>
<del>f.</del>	<del>Great gray owl—Strix nebulosa.</del>	<del>(7-1-93)</del>
<del>g.</del>	<del>Leatherside chub—Gila copei.</del>	<del>(7-1-93)</del>
<del>h.</del>	<del>Northern alligator lizard—Elgaria coerulea.</del>	<del>(7-1-93)</del>
<del>i.</del>	<del>Northern flying squirrel—Glaucomys sabrinus.</del>	<del>(7-1-93)</del>
<del>j.</del>	<del>Northern pygmy owl—Glaucidium gnoma.</del>	<del>(7-1-93)</del>
<del>k.</del>	<del>Preble's shrew—Sorex preblei.</del>	<del>(7-1-93)</del>
<del>l.</del>	<del>Pygmy shrew—Sorex hoyi.</del>	<del>(7-1-93)</del>
<del>m.</del>	<del>Pygmy nuthatch—Sitta pygmaea.</del>	<del>(7-1-93)</del>
<del>n.</del>	<del>Ringneck snake—Diadophis punctatus.</del>	<del>(7-1-93)</del>
<del>o.</del>	<del>Sand roller—Percopsis transmontana.</del>	<del>(7-1-93)</del>
<del>p.</del>	<del>Smooth green snake—Opheodrys vernalis.</del>	<del>(7-1-93)</del>
<del>q.</del>	<del>Spotted bat—Euderma maculatum.</del>	<del>(7-1-93)</del>
<del>r.</del>	<del>Three-toed woodpecker—Picoides tridaactylus.</del>	<del>(7-1-93)</del>
<del>s.</del>	<del>Townsend's big-eared bat—Plecotus townsendii.</del>	<del>(7-1-93)</del>
<del>t.</del>	<del>Western pipistrelle—Pipistrellus hesperus.</del>	<del>(7-1-93)</del>
<del>u.</del>	<del>Western pond turtle—Clemmys marmorata.</del>	<del>(7-1-93)</del>
<del>v.</del>	<del>White-headed woodpecker—Picoides albolarvatus.</del>	<del>(7-1-93)</del>

# House Resource and Conservation Committee

## DEPARTMENT OF FISH AND GAME Rules Governing Classification & Protection of Wildlife

Docket No. 13-0106-0401  
PENDING RULE

151. -- 199. (RESERVED).

### 200. PROTECTED NONGAME SPECIES.

- 01. Mammals. (7-1-93)
  - a. ~~Bison~~ ~~Bison bison~~ American pika - Ochotona princeps. (3-15-04)T
  - b. Bats - all species (3-15-04)T
  - bc. Chipmunks - ~~Tamias~~ Neotamias spp. (7-1-93)
  - d. Columbia Plateau (Merriam's) ground squirrel - *Spermophilus canus vigilis*. (3-15-04)T
  - ee. Golden-mantled ground squirrel - *Spermophilus lateralis*. (7-1-93)
  - f. Pika ~~*Ochotona princeps*~~ Great Basin (piute) ground squirrel - *Spermophilus canus vigilis*. (7-1-93)(3-15-04)T
  - dg. Kit fox - *Vulpes macrotis*. (7-1-93)
  - h. ~~Wolverine~~ ~~*Gulo gulo*~~ North American wolverine - *Gulo gulo luscus*. (7-1-93)(3-15-04)T
  - ei. Northern flying squirrel - *Glaucomys sabrinus*. (7-1-93)
  - gi. Red squirrel - *Tamiasciurus hudsonicus*. (7-1-93)
  - k. Rock squirrel - *Spermophilus variegatus*. (3-15-04)T
  - l. Southern Idaho ground squirrel - *Spermophilus brunneus endemicus*. (3-15-04)T
  - m. Wyoming ground squirrel - *Spermophilus elegans nevadensis*. (3-15-04)T
- 02. Birds. All native species. Except: (7-1-93)(3-15-04)T
  - a. ~~English sparrow~~ ~~*Passer domesticus*~~. (7-1-93)
  - b. ~~Feral pigeons~~ ~~*Columba livia*~~. (7-1-93)
  - ea. Game birds. (7-1-93)
  - d. ~~Migratory birds~~. (7-1-93)
  - e. ~~Predatory wildlife~~. (7-1-93)
  - fb. Threatened or endangered wildlife. (7-1-93)



## House Resource and Conservation Committee

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### DEPARTMENT OF FISH AND GAME Rules Governing Classification & Protection of Wildlife

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Docket No. 13-0106-0401  
PENDING RULE

03. ~~Predatory Wildlife.~~ Amphibians. All native species (7-1-93)(3-15-04)T
- ~~a. Coyote - *Canis latrans*.~~ (7-1-93)
- ~~b. Jackrabbit - *Lepus townsendii* and *L. californicus*.~~ (7-1-93)
- ~~c. Skunk - *Mephitis mephitis* and *Spilogale gracilis*.~~ (7-1-93)
- ~~d. Starling - *Sturnus vulgaris*.~~ (7-1-93)
- ~~e. Weasel, ermine - *Mustela erminea*,~~ (7-1-93)
04. Reptiles. All native species. (3-15-04)T
05. Fish. (3-15-04)T
- a. Bear Lake sculpin - *Cottus extensus*. (3-15-04)T
- b. Leatherside chub - *Gila copei*. (3-15-04)T
- c. Sand roller - *Percopsis transmontana*. (3-15-04)T
- d. Shoshone sculpin - *Cottus greeniei*. (3-15-04)T
- e. Wood River sculpin - *Cottus leiopomus*. (3-15-04)T
201. **PREDATORY WILDLIFE.**
01. Coyote. *Canis latrans*. (7-1-93)
02. Jackrabbit. *Lepus townsendii* and *L. californicus*. (7-1-93)
043. Long-Tailed and Short-Tailed Weasel, Ermine. *Mustela frenata*, *Mustela erminea*. (7-1-93)(3-15-04)T
034. Skunk. *Mephitis mephitis* and *Spilogale gracilis*. (7-1-93)
05. Starling. *Sturnus vulgaris*. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

### 300. PROTECTION OF WILDLIFE.

01. **Game Species.** Those species of wildlife classified as Big Game Animals, Upland Game Animals, Game Birds, Migratory Birds, Game Fish, Crustacea, or Furbearing Animals may

## House Resource and Conservation Committee

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**DEPARTMENT OF FISH AND GAME**  
**Rules Governing Classification & Protection of Wildlife****Docket No. 13-0106-0401**  
**PENDING RULE**

be taken only in accordance with Idaho law and ~~regulations~~ rules established by the Idaho Fish and Game Commission. (7-1-93)(3-15-04)T

**02. Protected Nongame, ~~Species Of Special Concern~~ and Threatened or Endangered Species.** No person shall take or possess those species of wildlife classified as Protected Nongame, ~~Species of Special Concern~~, or Threatened or Endangered at any time or in any manner, except as provided in Sections 36-106(e)5 and 36-1107, Idaho Code, ~~or~~ by Commission ~~regulation~~ rule, or IDAPA 13.01.10, "Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife," Subsection 100.06.b. Protected Nongame status is not intended to prevent unintentional take of these species, protection of personal health and/or safety, limit property and building management, or prevent management of animals to address public health concerns or agricultural damage. (7-1-93)(3-15-04)T

**03. Unprotected And Predatory Wildlife.** Those species of wildlife classified as Unprotected Wildlife and Predatory Wildlife may be taken in any amount, at any time, and in any manner not prohibited by state or federal law, by holders of the appropriate valid Idaho hunting, trapping, or combination hunting and fishing licenses, provided such taking is not in violation of state, county, or city laws, ordinances, or regulations. (7-1-93)

# House Resource and Conservation Committee

## IDAPA 13 - DEPARTMENT OF FISH AND GAME

### 13.01.07 - RULES GOVERNING THE TAKING OF UPLAND GAME ANIMALS

DOCKET NO. 13-0107-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101(a), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule made biennial season setting and rule adjustments. It establish a motorized vehicle use restriction for hunting in identified units, and establish an area closed to hunting at Mann's Lake in Nez Perce County.**

**The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 259 through 261.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

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#### *The Following Notice Was Published With The Temporary And Proposed Rule*

**EFFECTIVE DATE:** The effective date of the temporary rule is April 28, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-1101(a), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be

## House Resource and Conservation Committee

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**DEPARTMENT OF FISH AND GAME**  
**Rules Governing the Taking of Upland Game Animals****Docket No. 13-0107-0401**  
**PENDING RULE**

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scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Biennial season setting and rule adjustments. Establish a motorized vehicle use restriction for hunting in identified units. Establish an area closed to hunting at Mann's Lake in Nez Perce County.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c) , Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to hunters by allowing the hunting season to continue without interruption.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the hunting season without interruption and publish the Upland Game Season Proclamation Brochure.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Don Kemner (208) 287-2748.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707  
(208) 334-3715  
Fax (208) 334-2148

## House Resource and Conservation Committee

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**DEPARTMENT OF FISH AND GAME**  
**Rules Governing the Taking of Upland Game Animals**

**Docket No. 13-0107-0401**  
**PENDING RULE**

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### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### **101.   MOTORIZED VEHICLE USE RESTRICTIONS.**

The use of motorized vehicles by hunters as an aid to hunting upland game animals is restricted in certain areas. This use restriction is in addition to all federal, state and local laws, rules, regulations, ordinances and orders; including, but not limited to, any motorized vehicle licensing, registration, and permitting requirements and traffic laws. Hunters must comply with all motorized vehicle limits or prohibitions instituted by the landowner or land manager. Also, this use restriction rule is not an exception from, and is in addition to, the statutory prohibition against hunting from or by the use of any motorized vehicle set forth in Section 36-1101(b)(1), Idaho Code. (4-28-04)T

**01.   Use Restriction.** In designated areas and hunts, hunters may only use motorized vehicles on established roadways which are open to motorized traffic and capable of being traveled by full-sized automobiles. Any other use by hunters is prohibited. All off-road use by hunters is prohibited. (4-28-04)T

**02.   Exceptions.** This use restriction rule shall not apply to the following permissible motorized vehicle uses: (4-28-04)T

**a.** Holders of a valid Handicapped Persons Motor Vehicle Hunting Permit may use a motorized vehicle as allowed by the land owner or manager. (4-28-04)T

**b.** Hunters may use a motorized vehicle to retrieve downed game if such travel is allowed by the land owner or manager. (4-28-04)T

**c.** Hunters may use a motorized vehicle to pack camping equipment in or out if such travel is allowed by the land owner or manager; however, hunters shall not hunt while packing camping equipment. (4-28-04)T

**d.** Private landowners, their authorized agents and persons with written landowner permission may use a motorized vehicle on their private land; however, they may not hunt from or by the use of any motorized vehicle as prohibited by Section 36-1101(b)(1), Idaho Code. (4-28-04)T

**03.   Restricted Areas and Hunts.** This motorized vehicle use restriction shall apply to identified areas and hunts in all Big Game Management Units. The hunts and areas with a motorized vehicle use restriction are identified in the Commission's Big Game Season Proclamation and Upland Game Season Proclamation, which are published in a brochure available at department offices and license vendors. (4-28-04)T

**04.   Defined Terms.** (4-28-04)T

**a.** A full-sized automobile shall be defined as any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds. (4-28-04)T

## House Resource and Conservation Committee

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### DEPARTMENT OF FISH AND GAME Rules Governing the Taking of Upland Game Animals

Docket No. 13-0107-0401  
PENDING RULE

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**b.** An established roadway shall be defined as any road that is established, built, maintained, approved or designated by any governmental entity or private landowner for the purpose of travel by full-sized automobiles. An established roadway shows evidence of repeated use by full-sized automobiles, and may include a traveled way of natural earth with depressed wheel tracks and little or no vegetation in the wheel tracks. (4-28-04)T

**c.** A hunter shall be defined as a person engaged in the activity of hunting as defined in Section 36-202(j), Idaho Code. (4-28-04)T

**1042. -- 199. (RESERVED).**

#### **200. AREAS CLOSED TO HUNTING OF UPLAND GAME ANIMALS.**

Hunting, killing, or molesting upland game animals is prohibited in the following areas: (7-1-93)

**01. Craters of the Moon.** That area of Craters of the Moon National Monument in Blaine and Butte Counties prior to the November 2000 expansion of the Monument by Presidential decree. It is the hunter's responsibility to check with the Park Service to be able to identify the closed area. (7-1-93)(4-28-04)T

**02. Harriman State Park.** Harriman State Park Wildlife Refuge In Fremont County. (7-1-93)

**03. Nez Perce National Historical Park.** Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties; (7-1-93)

**04. Ada County.** That portion of Ada County within Veterans Memorial Park and the area between State Highway 21, Warm Springs Avenue, and the New York Canal from the New York Canal Diversion Dam downstream to the Boise City limits; (5-3-03)

**05. Yellowstone National Park.** Yellowstone National Park in Fremont County; and (7-1-93)

**06. Mann's Lake.** Mann's Lake in Nez Perce County and extending three hundred (300) yards beyond the Bureau of Reclamation property that encompasses the lake. (4-28-04)T

**067. Other.** On any of those portions of federal refuges, State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which bird hunting closures have been declared by legislative or Commission action. (7-1-93)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **400. UPLAND GAME ANIMALS SEASONS, BAG AND POSSESSION LIMITS.**

The following seasons, bag and possession limits shall apply STATEWIDE: Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and

## House Resource and Conservation Committee

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**DEPARTMENT OF FISH AND GAME**  
**Rules Governing the Taking of Upland Game Animals**

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**Docket No. 13-0107-0401**  
**PENDING RULE**license vendors.~~(7-1-93)~~(4-28-04)T

~~01. Cottontail Rabbits.~~ ~~(5-3-03)~~

~~a. Seasons: September 1 through February 28, annually.~~ ~~(10-26-94)~~

~~b. Daily bag limit is eight (8).~~ ~~(5-3-03)~~

~~c. Possession limit after the first day of the season is sixteen (16).~~ ~~(5-3-03)~~

~~02. Snowshoe Hares.~~ ~~(7-1-93)~~

~~a. Seasons: September 1 through March 31, annually.~~ ~~(10-26-94)~~

~~b. Daily bag limit is eight (8).~~ ~~(7-1-93)~~

~~c. Possession limit after the first day of the season is sixteen (16).~~ ~~(7-1-93)~~

## House Resource and Conservation Committee

### IDAPA 13 - DEPARTMENT OF FISH AND GAME

#### 13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

DOCKET NO. 13-0108-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101(a), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule performed an annual update of Big Game seasons and rules. It prohibit the hunting of Big Game within enclosures, clarified the motorized vehicle hunting restriction, and clarified the use of the nonresident junior mentored hunting license and tags. It required an adult with a tag for the same species and area to accompany nonresident junior mentored hunters, deleted the requirement for a mandatory check of Panhandle elk, clarified the areas closed to hunting, defined four-point deer, and simplified the evidence of sex requirements.**

**The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 263 through 278.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

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*The Following Notice Was Published With The Temporary And Proposed Rule*

**EFFECTIVE DATE:** The effective date of the temporary rule is March 26, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures



## House Resource and Conservation Committee

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**DEPARTMENT OF FISH AND GAME**  
***The Taking of Big Game Animals in the State of Idaho*****Docket No. 13-0108-0401**  
**PENDING RULE**

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have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-1101(a), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Annual update of Big Game seasons and rules. Prohibit the hunting of Big Game within enclosures. Clarify the motorized vehicle hunting restriction. Clarify the use of the nonresident junior mentored hunting license and tags. Require an adult with a tag for the same species and area to accompany nonresident junior mentored hunters. Delete the requirement for a mandatory check of Panhandle elk. Clarify the areas closed to hunting. Define four-point deer. Simplify the evidence of sex requirements.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The temporary rule confers a benefit to hunters and allows the seasons to continue uninterrupted.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the lack of identifiable representatives of the license-buying public, the need for the seasons to continue uninterrupted, and the need to publish the Big Game Season Proclamation Brochure.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Brad Compton (208) 287-2756.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 11th day of August, 2004.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game

## House Resource and Conservation Committee

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**DEPARTMENT OF FISH AND GAME**  
**The Taking of Big Game Animals in the State of Idaho**

**Docket No. 13-0108-0401**  
**PENDING RULE**

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600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707  
(208) 334-3715  
Fax (208) 334-2148

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### 010. DEFINITIONS.

- 01. Big Game Animals.** Big game animals are defined as the following species: (7-1-93)
- a.** Mule deer - *Odocoileus hemionus*. (7-1-93)
  - b.** White-tailed deer - *Odocoileus virginianus*. (7-1-93)
  - c.** Elk - *Cervus elaphus*. (7-1-93)
  - d.** Moose - *Alces alces*. (7-1-93)
  - e.** Pronghorn antelope - *Antilocapra americana*. (7-1-93)
  - f.** Rocky Mountain bighorn sheep - *Ovis canadensiscanadensis*. (7-1-93)
  - g.** California bighorn sheep - *Ovis canadensis californiana*. (7-1-93)
  - h.** Mountain goat - *Oreamnos americanus*. (7-1-93)
  - i.** Black bear - *Ursus americanus*. (7-1-93)
  - j.** Mountain lion - *Puma concolor*. (4-5-00)
  - k.** Gray wolf - *Canis lupus* (3-26-04)T

### (BREAK IN CONTINUITY OF SECTIONS)

#### 250. TAGS AND PERMITS.

No person shall hunt big game animals without having in possession the appropriate hunting license, tags, stamps and permits. (7-1-93)

- 01. Use of Tags.** (7-1-93)

## House Resource and Conservation Committee

### DEPARTMENT OF FISH AND GAME The Taking of Big Game Animals in the State of Idaho

**Docket No. 13-0108-0401**  
**PENDING RULE**

**a.** Permit/Tags issued for moose, bighorn sheep, mountain goat and antelope may be used only in the controlled hunt for which the permittee was drawn. (7-1-93)

~~**b.** A tag issued for mountain lion after the mountain lion season opens may NOT be used until the second day following its purchase. (3-20-97)~~

~~**c.** A tag issued for black bear after the black bear season opens may NOT be used until the second day following its purchase. (3-20-97)~~

~~**d.**~~ **b.** Tags issued for antelope archery hunts may be used only in general archery hunts. (7-1-93)

~~**e.**~~ **c.** Extra tags issued for deer, elk or antelope may be used only in the hunt area for which the tags are issued. (7-1-93)

~~**f.**~~ **d.** Any person who purchases a tag to hunt black bear, or archery antelope, who is unsuccessful in killing an animal, and who is subsequently drawn for a controlled hunt permit, including an antelope landowner preference permit, must return the unused tag to a Department office not later than August 10 to exchange the tag for the appropriate controlled hunt tag. The fee for the exchanged tag is the fee for a duplicate tag. (3-20-97)

~~**g.**~~ **e.** Tags issued for black bear and mountain lion may be used statewide. Extra tags issued for black bear and mountain lion may be used only in the hunt area for which the tags are issued. (4-5-00)

~~**h.**~~ **f.** Regular tags issued for deer and elk may be used ONLY as follows: (7-1-93)

i. Regular Deer:

TYPE OF TAG	SEASONS
Resident (Type 311)	Any archery, muzzleloader or general deer season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, & 20.
Resident (Type 330)	Extra Any antlerless deer tag season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20.
Senior Resident (Type 330)	Any archery, muzzleloader or general deer season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, & 20.
S.E. Idaho Area Units 75, 76, 77, and 78 Nonresident	To Hunt Deer in Units 75, 76, 77, and 78 you must have your deer tag validated for use in these units. These tags are limited to one thousand two-hundred (1200) nonresident tags and will be issued <del>first come</del> <u>first served by lottery</u> . EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, & 20
Nonresident (Type 411)	Any archery, muzzleloader or general deer season or controlled hunt for which the permittee was drawn, or may be used to tag a black bear or mountain lion during the Regular deer season when the black bear or mountain lion season is open.

## House Resource and Conservation Committee

**DEPARTMENT OF FISH AND GAME**  
**The Taking of Big Game Animals in the State of Idaho**

**Docket No. 13-0108-0401**  
**PENDING RULE**

TYPE OF TAG	SEASONS
Combination Controlled Hunt Permit and Tag	Only the designated controlled hunt for which the permittee was drawn.
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee was drawn.
Combination Controlled Hunt Permit and Extra Tag	Only the designated controlled extra tag hunt for which the permittee was drawn.

~~(3-30-01)~~(3-26-04)T

ii. Clearwater Deer.

TYPE OF TAG	SEASONS
Resident Clearwater	To hunt deer in any archery, muzzleloader or general deer season in Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20. These tags are valid only in the Clearwater Region units, and Regular Deer tags are not valid in these units.
Resident Extra Clearwater	To hunt an extra any-antlerless deer tag season in Units 8, 8A, <del>40</del> , 10A, <del>41</del> , 11A, <del>42, 13</del> , 14, <u>and</u> 15, <del>16, 16A, 17, 18, 19, and 20</del> . These tags are valid only in the Clearwater Region units, and Regular Deer tags are not valid in these units.
Senior Resident Clearwater	To hunt deer in any archery, muzzleloader or general deer season in Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20. These tags are valid only in the Clearwater Region units, and Regular Deer tags are not valid in these units.
Nonresident Clearwater	To hunt deer in any archery, muzzleloader or general deer season or controlled hunt for which the permittee was drawn in Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20. These tags are valid only in the Clearwater Region and may be used to tag a black bear or mountain lion during the Clearwater deer season when the black bear or mountain lion season is open. Regular Deer tags are not valid in these units.

~~(3-30-01)~~(3-26-04)T

iii. Elk A Tag: ~~Valid~~ only for A Tag elk seasons in specific elk zones.

TYPE OF TAG	SEASONS
Resident	Any elk archery, muzzleloader or general season in A Tag elk seasons in specific zones.
Senior Resident	Any elk archery, muzzleloader, or general season in A Tag seasons in specific zones.
Nonresident	Any elk archery, muzzleloader, or general season in A Tag elk seasons in specific zones, or controlled hunt for which the permittee was drawn.
Combination Controlled Hunt Permit and Tag	Only the designated controlled hunt for which the and Tag permittee was drawn.

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TYPE OF TAG	SEASONS
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee was drawn.
Combination Controlled Hunt Permit and Extra Tag	Only the designated controlled extra tag hunt for which the permittee was drawn.

~~(7-1-99)~~(3-26-04)T

- iv. Elk B Tag: ~~Valid~~ only for B Tag elk seasons in specific elk zones.

TYPE OF TAG	SEASONS
Resident	Any archery, muzzleloader, or general in B Tag elk seasons in specific zones.
Senior Resident	Any archery, muzzleloader, or general in B Tag elk seasons in specific zones.
Nonresident	Any elk controlled hunt for which the permittee was drawn or any archery, muzzleloader, or general in B Tag elk seasons in specific zones.
Combination Controlled Hunt Permit and Tag	Only the designated controlled hunt for which the permittee was drawn.
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee was drawn.
Combination Controlled Permit and Extra Tag	Only the designated controlled and extra tag hunt for which the permittee was drawn.

~~(7-1-99)~~(3-26-04)T

- v. Super Tag.

TYPE OF TAG	SEASONS
Combination Controlled Hunt Permit and "Super" Tag	Valid for either antelope, deer or elk and allows the hunter to hunt in any open and/or controlled hunt for the selected species.

(3-15-02)

- g.** Nonresident Junior Mentored Deer tags are not valid for bear or mountain lion.  
 (3-26-04)T

**h.** Any person hunting with a Nonresident Junior Mentored License or tag must be accompanied in the field by an adult license holder close enough to be within normal conversation or hearing range without shouting or the aid of electronic devices.  
 (3-26-04)T

**i.** Any adult accompanying the holder of a Nonresident Junior Mentored Tag must have a tag for the same species, valid in the same area.  
 (3-26-04)T

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**02. Return of Tags by Unsuccessful Permittees.** Permittees who are not successful in killing a bighorn sheep, mountain goat or moose shall present or mail their unused tags to a Department office within ten (10) days after the close of the season for which the tag was valid. Canceled tags will be returned to the hunter upon request. (5-15-95)

**03. Archery and Muzzleloader Permits.** Any person hunting in an archery only or muzzleloader only season must have the appropriate permit (archery or muzzleloader) for the relevant season validated on their license. (3-20-97)

### ***(BREAK IN CONTINUITY OF SECTIONS)***

#### **260. PERMITS FOR CONTROLLED HUNTS.**

**01. Use of Controlled Hunt Permits.** No person may hunt in any controlled hunt without having a valid controlled hunt permit in possession. (7-1-93)

**a.** A controlled hunt area with an “X” suffix is an extra tag hunt. (10-26-94)

**b.** In the event a permit is issued based on erroneous information, the permit will be invalidated by the Department and may NOT be used. The Department will notify the permittee of the invalidation of the permit. The person will remain on the drawn list, and if there is a waiting period in a succeeding year, the person will be required to wait the specified time period. (7-1-93)

**c.** Any person who receives a controlled hunt permit and tag for deer is prohibited from hunting in any other deer hunt--archery, muzzleloader, or general; EXCEPT the holder of a deer controlled hunt permit and tag may purchase a tag for and hunt in an extra tag hunt, or controlled hunt permit/extra tag hunt for deer. (3-20-97)

**d.** Any person who receives a combination controlled hunt permit/extra tag for deer may hunt in any other deer hunt--archery, muzzleloader, general or controlled hunt. (7-1-93)

**e.** Any person who receives a controlled hunt permit for elk is prohibited from hunting in any other elk hunt--archery, muzzleloader, or general; EXCEPT a controlled hunt permit holder may purchase a tag for and hunt in an extra tag hunt for elk. (7-1-93)

**f.** Any person who receives a combination controlled hunt permit/tag for antelope is prohibited from hunting in any archery antelope hunt. The holder of an antelope combination controlled hunt permit/extra tag may apply for a combination controlled hunt permit/tag for antelope or may purchase a tag for an archery antelope hunt. (7-1-93)

**g.** Any person who receives a spring controlled hunt permit for black bear is prohibited from hunting in any other spring bear hunt - April 15 to June 30. (7-1-99)

**h.** Any person who receives a fall controlled hunt permit for black bear is prohibited from hunting in any other fall bear hunts--September 15 to October 31. (10-26-94)

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### **02. Nonresident Permit Limitations.**

(3-20-04)

**a.** In controlled hunts with ten (10) or fewer permits, not more than one (1) nonresident permit will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than ten (10) permits, not more than ten percent (10%) of the permits will be issued to nonresidents. This rule shall be applied to each uniquely numbered controlled hunt ~~only~~ and to the controlled hunts for each species. ~~(3-20-04)~~(3-26-04)T

**b.** Outfitter allocated hunts are exempt from the limitation of Subsection 260.02.a.

(3-20-04)

**c.** For each species, the total number of outfitter allocated controlled hunt permits shall be subtracted from the result of ten percent (10%) of the sum of all controlled hunt permits; including outfitter allocated controlled hunts, but excluding all unlimited controlled hunts. In addition to the limitations of Subsection 260.02.a., the resulting net number shall be the maximum number of controlled hunt permits that may be issued to nonresidents for all controlled hunts except outfitter allocated and unlimited controlled hunts. (3-20-04)

**03. Eligibility.** Any person possessing a valid Idaho hunting license is eligible to apply for controlled hunts subject to the following restrictions: (7-1-93)

**a.** Holders of a Nongame Hunting License (Type 208) ~~or Two-day (2) Deer License (Type 132)~~ may not apply for any controlled hunt. ~~(10-26-94)~~(3-26-04)T

**b.** Any person whose name was drawn on a controlled hunt for either sub-species of bighorn sheep may not apply for any bighorn permit for two (2) years. Any person whose name was drawn on a controlled hunt for mountain goat may not apply for a mountain goat permit for two (2) years. Any person whose name was drawn on a controlled hunt for moose may not apply for a moose permit for two (2) years. Any person whose name was drawn on a controlled antlered-only deer hunt may NOT apply for any other controlled antlered-only deer hunt for one (1) year. Any person whose name was drawn on a controlled antlered-only elk hunt may NOT apply for any other controlled antlered-only elk hunt for one (1) year. The one (1) year waiting period does NOT apply to controlled hunts with an unlimited number of permits nor Landowner Preference Permits. EXCEPT all successful and unsuccessful antelope, deer and elk hunters that comply with all Mandatory Report requirements will be eligible to be randomly drawn for one (1) of ten (10) "Super" controlled antelope/deer/elk tags to hunt in any open general and/or controlled antelope, deer or elk hunt in the following hunting season. (3-15-02)

**c.** Any person applying for a bighorn sheep, mountain goat, or moose controlled hunt may NOT apply for any other controlled hunt in the same year EXCEPT Unlimited Controlled Hunts, a controlled black bear hunt, or a designated depredation or extra tag hunt for deer, elk or antelope. In addition, unsuccessful applicants for bighorn sheep, mountain goat or moose controlled hunts are eligible to participate in first-come, first-served deer, elk and antelope controlled hunt permit sales. (10-26-94)

**d.** Any person who has killed a California bighorn ram, Rocky Mountain bighorn ram or a moose on any controlled hunt may not apply for a permit for the same subspecies, EXCEPT

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any person who has killed a California bighorn ram south of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a Rocky Mountain bighorn ram permit for any hunt north of Interstate Highway 84. Any person who has killed a Rocky Mountain bighorn ram north of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a California bighorn ram permit for any hunt south of Interstate Highway 84. Auction tag and lottery tag winners are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep of either subspecies.

(4-5-00)

**e.** No person applying for a Rocky Mountain bighorn sheep controlled hunt as a first choice shall apply for a California bighorn sheep controlled hunt as a second choice. No person applying for a California bighorn sheep controlled hunt as a first choice shall apply for a Rocky Mountain bighorn sheep controlled hunt as a second choice. No person shall apply for both a Rocky Mountain and a California bighorn the same year.

(7-1-93)

**f.** Any person who kills a bighorn ewe may not apply for another bighorn ewe controlled hunt permit for five (5) years. The harvest of a bighorn ewe does not make the permittee ineligible to apply for a permit to take a California bighorn ram or a Rocky Mountain bighorn ram. Any person who applies for a bighorn ewe may not apply for any bighorn ram the same year.

(7-1-93)

**g.** Any person who has killed a mountain goat since 1977 may not apply for a mountain goat permit.

(7-1-93)

**h.** Any person who has killed a moose in Idaho may not apply for a moose permit.

(4-5-00)

~~**i.** Any person holding a Nonresident Hunting License (Type 202) or a duplicate thereof may not apply for a moose permit.~~

~~(7-1-93)~~

**ji.** Any person applying for a landowner permission hunt must have a signed permission slip from a landowner who owns more than one hundred fifty-nine (159) acres in the hunt area. The permission slip must have the landowner's name and address on it along with the landowner's signature.

(7-1-98)

~~**kj.**~~ Any person may apply for both a controlled hunt permit/tag and a controlled hunt permit/extra tag.

(7-1-93)

~~**lk.**~~ Nonresident hound hunters applying for controlled black bear hunts must first obtain a Hound Hunter Permit pursuant to IDAPA 13.01.15.200.04, "Rules Governing the Use of Dogs".

(7-1-99)

**04. Applications.** Individual applications or group applications for controlled hunts shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than the annual dates shown below. Any individual application or group application which is unreadable, has incomplete or incorrect hunt or license numbers, or which lacks the required information or fee will be declared void and will not be entered in the drawing. All applications will be considered final; they may not be resubmitted after correction.

(10-26-94)



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- a.** Spring black bear - Application period - January 15 - February 15. (3-26-04)T
- ~~a~~b.** Moose, bighorn sheep, and mountain goat - Application period for first drawing - April 1 - 30.  
(~~7-1-93~~)(3-26-04)T
- ~~b~~c.** Deer, elk, antelope and fall black bear - Application period for first drawing - May 1 - 31.  
(~~3-20-97~~)(3-26-04)T
- ~~ed~~d.** ~~Spring black bear - February 16~~ Moose, bighorn sheep, and mountain goat - Application period for second drawing, if applicable - June 15 - 25.  
(~~3-20-97~~)(3-26-04)T
- e.** Deer, elk, antelope, and fall black bear - Application period for second drawing - August 5 - 15. (3-26-04)T

**05. Applicant Requirements.** Applicants must comply with the following requirements: (7-1-93)

**a.** Only one (1) application, per person or group, will be accepted for the same species, EXCEPT a person or group may submit one additional application for a controlled hunt permit/extra tag for the same species. Additional applications for the same person or group for the same species will result in all applicants being declared ineligible. (10-26-94)

**b.** Only one (1) controlled hunt permit/extra tag will be issued for each person on any application submitted. (10-26-94)

**c.** Several applications may be submitted in a single envelope so long as each application is for a single species, a single applicant or group, and both hunts on an application must be controlled hunt permit/tag hunts or controlled hunt permit/extra tag hunts. (10-26-94)

**d.** Fees must be submitted with each application. A single payment (either cashier's check, money order, certified check, or a personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. The application fee is ~~five dollars (\$5)~~ set by Section 36-416, Idaho Code, per person per hunt, for deer, elk, antelope, moose, bighorn sheep, mountain goat, black bear, and lion, applied for and is NOT refundable. The tag fees are not to be submitted with either the telephone or mail-in-application for deer, elk, antelope, black bear, or mountain lion. Persons applying for moose, bighorn sheep, or mountain goat controlled hunts must submit the tag fee and application fee with their application. Applicants successful in drawing for a moose, bighorn sheep, or mountain goat will receive a permit tag in the mail. (~~7-1-98~~)(3-26-04)T

**e.** Any controlled hunt permits, EXCEPT unlimited controlled hunts that remain unsold after the controlled hunt drawings may be sold forty five (45) days following the close of each respective controlled hunt drawing by any Point-of-Sale vendor on a first-come, first-served basis UNLESS such day is a Sunday, in which case the permits will go on sale the next legal business day. A controlled hunt permit and tag will be issued to successful applicants. The ten percent (10%) nonresident limitation shall not apply. Applicants with a tag already in possession

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must return their tag to a Department office to be exchanged for the appropriate controlled hunt tag. The fee for the exchanged tag is the fee for a duplicate tag. (3-15-02)

**f.** A “group application” for deer, elk, and antelope is defined as two, three, or four (2, 3, or 4) hunters applying for the same controlled hunt on the same application. All hunters must comply with all rules and complete applications properly. All applicants must abide by the same first and second hunt choices. (10-26-94)

**g.** A “group application” for moose, bighorn sheep, mountain goat, and black bear is defined as two (2) hunters applying for the same controlled hunt on the same application. Both hunters must comply with all rules and complete applications properly. Both applicants must abide by the same first and second hunt choices. (10-26-94)

**h.** If a group application exceeds the number of permits available in a hunt that group application will not be selected for that hunt. (7-1-98)

**i.** Landowner permission hunt permits will be sold first-come, first-served basis at the Nampa, McCall and Headquarters offices of the Idaho Department of Fish and Game after July 15. (7-1-98)

#### **06. Refunds of Controlled Hunt Fees.** (7-1-93)

**a.** Controlled hunt tag fees will be refunded to the unsuccessful or ineligible applicants for moose, sheep, and mountain goat. Unsuccessful applicants may donate all or a portion of their tag fee for moose, bighorn sheep, and mountain goat to Citizens Against Poaching by checking the appropriate box on the application. One dollar (\$1) of the non-refundable application fee will go to Citizens Against Poaching unless the applicant instructs otherwise. (3-20-97)

**b.** Fees for hunting licenses will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

**c.** Fees for deer or elk tags purchased prior to the drawing will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

**d.** Overpayment of fees of more than five dollars (\$5) will be refunded. Overpayment of five dollars (\$5) or less will NOT be refunded and will be retained by the Department. (7-1-93)

**07. Controlled Hunt Drawing.** Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing, provided the second choice hunt applied for has not been filled. (7-1-93)

**08. Unclaimed Permits.** Successful applicants for the first deer, elk, black bear, or antelope controlled hunt drawing must purchase and pick up their controlled hunt permit and tag by August 1. All controlled hunt tags and permits not purchased and picked up will be entered into a second controlled hunt drawing. Any controlled hunt tags and permits left over or unclaimed after the second controlled hunt drawing will be sold on a first-come, first-served basis. (3-26-04)T

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**261. -- 269. (RESERVED).**

**270. MANDATORY SCHOOL.**

**01. Sheep Permits.** Anyone drawing a sheep permit must attend a mandatory sheep school at a Department office prior to hunting bighorn sheep. Attendees will be issued a certificate of completion, which must be carried by the permittee during the hunt. (7-1-93)

**02. Use of Licensed Guide.** Any hunter who will have an Idaho licensed guide with him at all times while hunting sheep may choose to have said guide attend in his place. This option may be accomplished by notifying the Department in writing of the name, address, and phone number of the designated guide. Notification must be sent to the Idaho Department of Fish and Game, c/o Sheep School, P.O. Box 25, Boise, Idaho 83707 and must be received by the Department prior to attendance by the designated guide. (7-1-93)

**03. Mandatory Class for Deer Hunt Area 39-23.** Anyone drawing a deer controlled archery-only hunt permit for controlled hunt area 39-23 must attend a mandatory hunter orientation class. The class is three (3) hours long and will be offered at times specified by the Department. The orientation classes will be offered on ten (10) dates between October 15 and November 15. Since classroom size is limited, each permittee must schedule a time to attend a class prior to October 15. Attendees will be issued a certificate of completion, which must be carried by the permittee during the hunt. Holders of "Certificates of Completion" from previous hunts are not required to attend this orientation class. ~~(10-26-94)~~(3-26-04)T

**271. -- 299. (RESERVED).**

**300. IDENTIFICATION OF ANIMALS THAT LEGALLY MAY BE TAKEN.**

**01. Big Game Animals of Either Sex.** Big game animals of either sex may be taken as noted below: (7-1-93)

- a.** Mountain Goat. Either sex may be taken EXCEPT nannies accompanied by kids. (7-1-93)
- b.** Black Bear. Either sex may be taken EXCEPT female black bears accompanied by young. (7-1-93)
- c.** Mountain Lion. Either sex may be taken EXCEPT spotted young or females accompanied by young. (7-1-93)

**02. Seasons Restricted to Antlered or Male Animals Only.** (7-1-93)

**a.** Deer. Only deer with at least one (1) antler longer than three (3) inches may be taken in any season which is open for antlered deer only. (7-1-93)

**b.** Two-point deer. Only deer with not more than two (2) points on one (1) antler, not including brow point, and at least one (1) antler longer than three (3) inches may be taken in any

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season which is open for two-point deer only. A point is an antler projection that is at least one (1) inch long and longer than the width of the projection. (7-1-99)

**c.** Three-point deer. Only deer having at least one (1) antler with three (3) or more points not counting the brow point or tine may be taken in any season which is open for three-point or larger deer only. A point is an antler projection that is at least one (1) inch long and longer than the width of the projection. (3-15-02)

**d.** Four-point deer. Only deer having at least one (1) antler with four (4) or more points, not including the brow point or tine, may be taken in any season that is open for four-point or larger deer only. (3-26-04)T

**~~de.~~** Elk. Only elk with at least one (1) antler longer than six (6) inches may be taken in any season which is open for antlered elk only. (7-1-99)

**~~ef.~~** Spike elk. Only elk with no branching on either antler and at least one (1) antler longer than six (6) inches may be taken in any season which is open for spike elk only. A branch is an antler projection that is at least one (1) inch long and longer than the width of the projection. (7-1-99)

**~~fg.~~** Brow-tined elk. Any elk having an antler or antlers with a visible point on the lower half of either main beam that is greater than or equal to four (4) inches long. (3-15-02)

**~~gh.~~** Moose. Only moose with at least one (1) antler longer than six (6) inches may be taken in any season open for antlered moose only. (7-1-93)

**~~hi.~~** Bighorn Sheep. Only bighorn sheep rams having three-fourths (3/4) curl or greater horns or exceeding four (4) years of age may be taken in any hunt open for rams only. Determination of a three-fourths (3/4) curl shall be made from a broad side view of the head. A ram shall be considered three-fourths (3/4) curl if an imaginary straight line extending downward from the front of the base of the horn through the center of the eye socket intersects any portion of the horn. (7-1-93)

### **03. Seasons Restricted to Antlerless or Female Animals Only.** (7-1-93)

**a.** Deer. Only deer without antlers or with antlers shorter than three (3) inches may be taken in any season which is open for antlerless deer only. (7-1-93)

**b.** Elk. Only elk without antlers or with antlers shorter than six (6) inches may be taken in any season which is open for antlerless elk only. (7-1-93)

**c.** Antelope. Only antelope without a black “cheek patch” or horns less than three (3) inches long may be taken during doe and fawn only antelope seasons. (7-1-93)

**d.** Bighorn sheep. Only bighorn sheep with horns between six (6) inches and twelve (12) inches in length may be taken in any season which is open for bighorn ewes only. (7-1-93)

**e.** Moose. Only moose without antlers or with antlers less than six (6) inches long

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may be taken in any season which is open for antlerless moose only.

(7-1-93)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **350. IDENTIFICATION OF SEX, SIZE, AND/OR SPECIES IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.**

**01. Evidence of Sex.** ~~Evidence of sex must be left attached to the hide of any black bear or mountain lion taken until the mandatory check requirement has been complied with.~~ Evidence of sex must be left naturally attached to the carcass of any big game animal ~~taken in a season restricted to antelope doe or fawn only, antlerless, female, antlered, or male animals only.~~  
(7-1-98)(3-26-04)T

**a.** In antlered or male only seasons, the evidence of sex requirement is met when the head, horns, or antlers are left naturally attached to the whole carcass or to a front quarter. If the head, horns, or antlers are removed, some other external evidence of sex (either scrotum, penis or testicles) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption; AND the horns or antlers must accompany the carcass while in transit. (7-1-93)

**b.** In spike elk or two-point (2) deer only seasons, the evidence of sex requirement is met when the head with both complete unaltered antlers are left naturally attached to the whole carcass or to a front quarter. If the head or antlers are removed, some other external evidence of sex (either scrotum, penis or testicles) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption; AND both complete unaltered antlers naturally attached to each other must accompany the carcass while in transit. (7-1-93)

**c.** In antlerless, doe/fawn or female only seasons, if the head is removed from female elk, moose, deer, antelope or bighorn sheep, some other external evidence of sex (either udder or the vulva) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption. (7-1-93)

**d.** The entire head of antlerless male elk, moose, deer, or antelope or a male lamb bighorn sheep killed during an antlerless, female, doe/fawn or ewe only season, may be left naturally attached to the carcass or to a front quarter until the carcass reaches the final place of storage or consumption. If the head is removed, some other external evidence of sex (either scrotum, penis, or testicles) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption, AND the lower jaw must accompany the carcass while in transit. (7-1-93)

**e.** For black bear and mountain lion external evidence of sex (either scrotum, penis or testicles for males, or vulva for females) must be left naturally attached to the hide until the mandatory check has been complied with. (7-1-98)

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**02. Evidence of Species.** In seasons restricted to mule deer only or white-tailed deer only, if the head is removed, the fully-haired tail must be left naturally attached to the carcass. (7-1-93)

**03. Evidence of Size.** Any hunter taking a bighorn ram must leave that portion of the skull plate containing the upper one-half (1/2) of the eye socket naturally attached to both of the horns until after the horns have been pinned by the Department. (7-1-93)

**04. Other.** The Department may designate seasons and areas in which the head or lower jaw must accompany the carcass in transit. (7-1-93)

### ***(BREAK IN CONTINUITY OF SECTIONS)***

#### **410. UNLAWFUL METHODS OF TAKE.**

No person shall take big game animals as outlined in this section. (7-1-93)

**01. Firearms.** (7-1-93)

**a.** With any firearm that, in combination with a scope, sling, and/or any other attachments, weighs more than sixteen (16) pounds. (7-1-93)

**b.** With any shotgun using any shot smaller than double-aught (#00) buck. (7-1-93)

**c.** With any rimfire rifle, rimfire handgun or any muzzleloading handgun, EXCEPT for mountain lion. (7-1-93)

**d.** With a fully automatic firearm. (10-26-94)

**e.** With any electronic device attached to, or incorporated in, the firearm (including handguns and shotguns) or scope. (3-30-01)

**02. Bows, Crossbows, Arrows, Bolts, Chemicals or Explosives.** (3-20-97)

**a.** With arrows or bolts having broadheads measuring less than seven-eighths (7/8) inch in width and having a primary cutting edge less than fifteen-thousandths (0.015) inch thick. (7-1-93)

**b.** With any bow having a peak draw weight of less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of less than one hundred-fifty (150) pounds. (3-20-97)

**c.** With any chemicals or explosives attached to the arrow or bolt. (7-1-93)

**d.** With arrows or bolts having expanding broadheads. (7-1-93)

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- e.** With arrows or bolts having barbed broadheads. A barbed broadhead is a broadhead which has any portion of the rear edge of the broadhead forming an angle less than ninety (90) degrees with the shaft or ferrule. (7-1-93)
- f.** With any electronic or tritium-powered device attached to, or incorporated into, an arrow, bolt, crossbow, or bow. (3-30-01)
- g.** With any bow capable of shooting more than one (1) arrow at a time. (7-1-93)
- h.** With any compound bow with more than sixty-five percent (65%) let-off. (7-1-93)
- i.** With an arrow and broadhead, or bolt and broadhead, with a combined total weight of less than four hundred (400) grains. (3-20-97)
- j.** With an arrow less than twelve (12) inches from the broadhead to the nock inclusive. (3-30-01)
- k.** With an arrow wherein the broadhead does not proceed the shaft and nock. (3-30-01)
- l.** During an ARCHERY ONLY season, with any firearm, crossbow (except disabled archers), or other implement other than a longbow, compound bow, or recurve bow, or: (3-20-97)

  - i.** With any device attached that holds a bow at partial or full draw. (7-1-93)
  - ii.** With any bow or crossbow equipped with magnifying sights. (3-20-97)
- m.** During a TRADITIONAL ARCHERY ONLY season, with any firearm, crossbow, or other implement other than a longbow or recurve bow, or: (3-15-02)

  - i.** With an arrow not constructed of wood or fletched with non-natural material. (3-15-02)
  - ii.** With any bow equipped with sights. (3-15-02)
- n.** With any crossbow pistol. (3-20-97)
- 03. Muzzleloaders.** (7-1-93)

  - a.** With a muzzleloading rifle or musket which is less than forty-five (.45) caliber for deer, antelope, or mountain lion, or which is less than fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. (7-1-93)
  - b.** With any electronic device attached to, or incorporated in, the muzzleloader. (3-30-01)
  - c.** During a MUZZLELOADER ONLY season, with any firearm, muzzleloading

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pistol or other implement other than a muzzleloading rifle or musket which: (7-1-93)

i. Is at least forty-five (.45) caliber for deer, antelope or mountain lion or at least fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat or black bear. (7-1-93)

ii. Is capable of being loaded only from the muzzle. (7-1-93)

iii. Is equipped only with open or peep sights. (7-1-93)

iv. Is loaded only with black powder or, Pyrodex or other synthetic black powder. (3-20-97)

v. Is equipped with no more than two (2) barrels. (7-1-93)

vi. Is loaded only with a projectile of at least four hundred twenty-eight (.428) caliber. (3-20-97)

vii. Is equipped only with flint, musket cap, or percussion cap. ~~(3-20-97)~~(3-26-04)T

**d.** During a TRADITIONAL MUZZLELOADER ONLY season, with any firearm other than a muzzleloader rifle or musket with an exposed hammer that pivots: (3-15-02)

i. Is loaded only with loose black powder or Pyrodex. (3-15-02)

ii. Is loaded only with a patched round ball projectile. (3-15-02)

**04. Short-Range Weapon.** During Short-Range Weapon ONLY seasons ONLY the following weapons may be used: (7-1-99)

**a.** With any shotgun using any slug or double-aught (#00) or larger buckshot. (7-1-99)

**b.** With any muzzleloader that is at least forty-five (0.45) caliber for deer, antelope, or mountain lion or at least fifty (0.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. (7-1-99)

**c.** With any bow having a peak draw weight of not less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of not less than one hundred fifty (150) pounds. (7-1-99)

**05. Other.** (7-1-93)

**a.** With electronic calls EXCEPT for the hunting of mountain lions in Units 41, 42 and that portion of Unit 12 north of State Highway 12 southwest of the Doe Creek Road (Forest Service Road 566) and northeast of Cabin Creek and Forest Service Road 486. (3-15-02)

**b.** With any bait including grain, salt in any form (liquid or solid), or any other substance (not to include liquid scent) to constitute an attraction or enticement, with the exception



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of applicable rules for the black bear baiting permit. See Rules of the Idaho Fish and Game Commission, IDAPA 13.01.17, "Rules Governing the Use of Bait for Taking Big Game Animals". (3-30-01)

c. With dogs, EXCEPT for mountain lion or black bear. See Rules of the Idaho Fish and Game Commission, IDAPA 13.01.15, "Rules Governing the Use of Dogs". (7-1-93)

d. With any net, snare, trap, chemical, deadfall or device other than legal firearm, archery or muzzleloader equipment. (7-1-93)

e. ~~In Traditional Archery and Muzzleloader Hunts, the use of motorized vehicles shall be limited to public highways and improved highways which are open to public use.~~ Within an enclosure designed to prevent ingress or egress of big game animals, including fenced facilities defined as Domestic Cervidae Farms under Section 25-3501, Idaho Code, unless authorized by the director. This rule shall not apply to domestic cervidae which are lawfully privately owned elk, fallow deer, or reindeer. (3-15-02)(3-26-04)T

f. ~~In Unit 47, motorized vehicle use as an aid to hunting for wildlife is restricted to established roadways open to motorized traffic capable of travel by full-sized automobiles. A full-sized automobile shall be defined as any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds.~~ (3-20-04)

g. ~~Motorized vehicle use as an aid to hunting for wildlife is restricted to established roadways open to motorized traffic capable of travel by full-sized automobiles in identified hunts in Units 32, 32A, 48, 49, 50, 51, 58, 59, 59A, 70, 72, 73, 75, 77, and 78. The hunts with a motorized vehicle restriction are identified in the Commission's Big Game Season Proclamation, which is published in a brochure available at department offices and license vendors. A full-sized automobile shall be defined as any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds.~~ (3-20-04)

#### **411. MOTORIZED VEHICLE USE RESTRICTIONS.**

The use of motorized vehicles by hunters as an aid to hunting big game is restricted in certain areas. This use restriction is in addition to all federal, state and local laws, rules, regulations, ordinances and orders; including, but not limited to, any motorized vehicle licensing, registration, and permitting requirements and traffic laws. Hunters must comply with all motorized vehicle limits or prohibitions instituted by the landowner or land manager. Also, this use restriction rule is not an exception from, and is in addition to, the statutory prohibition against hunting from or by the use of any motorized vehicle set forth in Section 36-1101(b)(1), Idaho Code. (3-26-04)T

**01. Use Restriction.** In designated areas and hunts, hunters may only use motorized vehicles on established roadways which are open to motorized traffic and capable of being traveled by full-sized automobiles. Any other use by hunters is prohibited. All off-road use by hunters is prohibited. (3-26-04)T

**02. Exceptions.** This use restriction rule shall not apply to the following permissible motorized vehicle uses: (3-26-04)T

a. Holders of a valid Handicapped Persons Motor Vehicle Hunting Permit may use a

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motorized vehicle as allowed by the land owner or manager. (3-26-04)T

**b.** Hunters may use a motorized vehicle to retrieve downed game if such travel is allowed by the land owner or manager. (3-26-04)T

**c.** Hunters may use a motorized vehicle to pack camping equipment in or out if such travel is allowed by the land owner or manager; however, hunters shall not hunt while packing camping equipment. (3-26-04)T

**d.** Private landowners, their authorized agents and persons with written landowner permission may use a motorized vehicle on their private land; however, they may not hunt from or by the use of any motorized vehicle as prohibited by Section 36-1101(b)(1), Idaho Code. (3-26-04)T

**03. Restricted Areas and Hunts.** This motorized vehicle use restriction shall apply to identified areas and hunts in all Big Game Management Units. The hunts and areas with a motorized vehicle use restriction are identified in the Commission's Big Game Season Proclamation, which is published in a brochure available at department offices and license vendors. (3-26-04)T

**04. Defined Terms.** (3-26-04)T

**a.** A full-sized automobile shall be defined as any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds. (3-26-04)T

**b.** An established roadway shall be defined as any road that is established, built, maintained, approved or designated by any governmental entity or private landowner for the purpose of travel by full-sized automobiles. An established roadway shows evidence of repeated use by full-sized automobiles, and may include a traveled way of natural earth with depressed wheel tracks and little or no vegetation in the wheel tracks. (3-26-04)T

**c.** A hunter shall be defined as a person engaged in the activity of hunting as defined in Section 36-202(j), Idaho Code. (3-26-04)T

**4142. -- 419. (RESERVED).**

### **420. MANDATORY CHECK AND REPORT REQUIREMENTS.**

Any hunter killing black bear, Panhandle elk, moose, bighorn sheep or mountain goat, or mountain lion in a unit with no female lion quota must, WITHIN TEN (10) DAYS OF THE DATE OF KILL, or any hunter killing mountain lion in a unit with a female quota must, WITHIN FIVE (5) DAYS OF THE DATE OF KILL, comply with the mandatory check and report requirements by: (4-5-00)

**01. Harvest Report.** Completing the relevant harvest report (big game mortality report, ~~Panhandle mandatory elk report~~, or other report form as required) for the species taken. (7-1-93)(3-26-04)T

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**02. Presentation of Animal Parts.** Presenting the following animal parts so that Department personnel may collect biological data and mark the animal parts: (7-1-93)

**a.** Bear: Skull and hide to be presented to a conservation officer, regional office or official check point for removal and retention of premolar tooth and to have the hide marked. No person shall have in possession, except during the open season and for ten (10) days after the close of the season, any raw black bear pelt which does not have an official state export tag attached (either Idaho's or another state's official export tag). (7-1-93)

**b.** Mountain Lion: Skull and hide to be presented to a conservation officer or regional office to have the hide marked. No person shall have in possession, except during the open season and for five (5) days after the close of the season, any raw mountain lion pelt which does not have an official state export tag attached (either Idaho's or another state's official export tag). (7-1-93)

**c.** Moose: Antlers from antlered animals to be presented to a conservation officer or regional office. (7-1-93)

**d.** Bighorn Sheep: Ram horns to be presented to a regional office for marking, ewe horns to be presented to a regional office. (7-1-93)

**e.** Mountain Goat: Horns to be presented to a conservation officer or regional office. (7-1-93)

**f.** ~~Panhandle Elk: (Elk killed in Units 1, 2, 3, 4, 4A, 5, 6, 7, or 9), head or lower jaw to be presented to conservation officer, regional office, official check point or check station.~~  
(7-1-93)

**03. Authorized Representative.** A hunter may authorize another person to comply with the above requirements if that person complies with reporting requirements and possesses enough information to accurately complete the necessary form. (7-1-93)

### (BREAK IN CONTINUITY OF SECTIONS)

## 500. AREAS CLOSED TO HUNTING OF BIG GAME ANIMALS.

**01. Restricted Areas for Big Game.** Hunting, killing, or molesting of any big game animal is prohibited in the following areas: (7-1-93)

**a.** Craters of the Moon National Monument and Preserve in Blaine and Butte Counties; the boundary of the Craters of the Moon National Monument was recently greatly enlarged by Presidential Proclamation. ~~Approximately 410,512 acres of the expansion will be primarily managed by the National Park Service which has stated its intention to close this area to hunting. The state of Idaho strongly opposes this action and is working to keep this area open to hunting in accordance with the language in the Presidential Proclamation which assures continued jurisdiction over wildlife by the state of Idaho. This issue remains unresolved.~~ All of the

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lands added to the Monument and Preserve remain open to hunting, while lands within the former National Monument remain closed to hunting. It is the hunter's responsibility to check the current status of open/closed area boundaries prior to hunting. ~~(3-15-02)~~(3-26-04)T

**b.** All state parks, EXCEPT Farragut State Park that has a November/December deer archery season, Billingsley Creek at Malad Gorge State Park, Castle Rock State Park and state land within the City of Rocks National Reserve are all open to hunting; ~~(7-1-93)~~(3-26-04)T

**c.** ~~All state land within City of Rocks National Reserve in Unit 55;~~ Harriman State Park Wildlife Refuge. ~~(7-1-93)~~(3-26-04)T

~~**d.** Idaho National Engineering and Environmental Laboratory (INEEL) site in Bingham, Bonneville, Butte, Clark, and Jefferson Counties, EXCEPT as modified in General A Tag hunt in the Big Desert Zone, elk controlled hunt areas 51-1, 51-2, 51-3, and 51-4 and antelope controlled hunt areas 51-2, 63-1 and 63-2. (4-5-00)~~

**ed.** Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties; (7-1-93)

**fe.** That portion of Ada County within Veterans Memorial Park and the area between State Highway 21 to Warm Springs Avenue and ~~then along Warm Springs Avenue and the New York Canal from the New York Canal Diversion Dam downstream to the~~ Boise City limits; ~~(7-1-99)~~(3-26-04)T

**gf.** Yellowstone National Park in Fremont County; (7-1-93)

**hg.** On any of those portions of State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which hunting closures have been declared by legislative or Commission action; (7-1-93)

**ih.** All or portions of national wildlife refuges, EXCEPT as specified in federal regulations for individual refuges; and, (7-1-93)

**ji.** All Snake River islands between the Glenns Ferry bridge and the Sailor Creek bridge in Elmore County. (7-1-93)

**kj.** Hagerman Fossil Beds National Monument in Twin Falls County, EXCEPT that portion within an area of fifty (50) feet in elevation above the high water level of the Snake River. The upslope area is marked by yellow fiberglass markers, and hunting is permitted downslope to the river. (3-20-97)

**02. Mountain Lions.** Mountain lion may not be hunted or pursued within one-half (1/2) mile of any active Department of Fish and Game big game feeding site. (7-1-93)

**03. Black Bear.** Black bear may not be hunted or pursued within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. (7-1-93)

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### IDAPA 13 - DEPARTMENT OF FISH AND GAME

#### 13.01.09 - RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO

DOCKET NO. 13-0109-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 36-104(b) and 36-1101(a), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule made biennial season setting and rule adjustments for upland game birds. It established a motorized vehicle use restriction for upland game bird hunting in identified units, and established an area closed to hunting at Mann's Lake in Nez Perce County. It set a ten o'clock (10:00) AM start of shooting hours on certain Wildlife Management Areas.**

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 280 through 292.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

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*The Following Notice Was Published With The Temporary And Proposed Rule*

**EFFECTIVE DATE:** The effective date of the temporary rule is April 28, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-1101(a),

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**DEPARTMENT OF FISH AND GAME**  
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Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking: Biennial season setting and rule adjustment for upland game birds. Establish a motorized vehicle use restriction for upland game bird hunting in identified units. Establish an area closed to hunting at Mann's Lake in Nez Perce County. Set a 10 a.m. start of shooting hours on certain Wildlife Management Areas.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The temporary rule confers a benefit to hunters and allows the hunting seasons to continue uninterrupted.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the hunting seasons without interruption and to publish the Upland Game Bird Seasons Proclamation Brochure.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Don Kemner (208) 287-2748.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

W. Dallas Burkhalter, Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut - P.O. Box 25, Boise, Idaho 83707  
(208) 334-3715 / Fax (208) 334-2148

**THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

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### DEPARTMENT OF FISH AND GAME Rules Governing the Taking of Game Birds

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#### 300. UPLAND GAME BIRD METHODS OF TAKE.

##### 01. Taking of Upland Game Birds. No person shall take upland game birds: (7-1-93)

a. Except wild turkey, from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise. Pheasants shall not be taken before twelve o'clock noon on the opening day in certain counties (see Rule 11, Pheasant Seasons). Wild turkey shall not be taken between sunset and one-half (1/2) hour before sunrise. Pheasants shall not be taken before 10 a.m. after the opening day on the Fort Boise, Montour, Payette River and C.J. Strike Wildlife Management Areas. ~~(7-1-93)~~(4-28-04)T

b. With a trap, snare, net, crossbow, or firearms EXCEPT a shotgun using shells not exceeding three and one-half (3-1/2) inches maximum length, slingshot, hand-held or thrown missiles, EXCEPT forest grouse. Forest grouse shall not be taken with a trap, snare, net, or crossbow. (3-30-01)

c. From boats or other craft having a motor attached UNLESS the motor is completely shut off and forward progress has ceased, or if the boat is drifting naturally, or if it is propelled only by paddle, oars, or pole, or if it is beached, moored, or resting at anchor. (7-1-93)

d. By the use or aid of any electronic call. (7-1-93)

e. By the aid of baiting. Bait is defined as any substance placed to attract upland game birds. (7-1-93)

02. Wild Turkey. In addition to the methods listed above, wild turkey may not be taken: (7-1-93)

a. With lead shot exceeding BB size. (7-1-93)

b. With steel shot exceeding T size. (7-1-93)

c. By the use of dogs, except during fall hunts. (3-30-01)

#### (BREAK IN CONTINUITY OF SECTIONS)

#### 302. MOTORIZED VEHICLE USE RESTRICTIONS.

The use of motorized vehicles by hunters as an aid to hunting game birds is restricted in certain areas. This use restriction is in addition to all federal, state and local laws, rules, regulations, ordinances and orders; including, but not limited to, any motorized vehicle licensing, registration, and permitting requirements and traffic laws. Hunters must comply with all motorized vehicle limits or prohibitions instituted by the landowner or land manager. Also, this use restriction rule is not an exception from, and is in addition to, the statutory prohibition against hunting from or by the use of any motorized vehicle set forth in Section 36-1101(b)(1), Idaho Code. (4-28-04)T

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**01. Use Restriction.** In designated areas and hunts, hunters may only use motorized vehicles on established roadways which are open to motorized traffic and capable of being traveled by full-sized automobiles. Any other use by hunters is prohibited. All off-road use by hunters is prohibited. (4-28-04)T

**02. Exceptions.** This use restriction rule shall not apply to the following permissible motorized vehicle uses: (4-28-04)T

**a.** Holders of a valid Handicapped Persons Motor Vehicle Hunting Permit may use a motorized vehicle as allowed by the land owner or manager. (4-28-04)T

**b.** Hunters may use a motorized vehicle to retrieve downed game if such travel is allowed by the land owner or manager. (4-28-04)T

**c.** Hunters may use a motorized vehicle to pack camping equipment in or out if such travel is allowed by the land owner or manager; however, hunters shall not hunt while packing camping equipment. (4-28-04)T

**d.** Private landowners, their authorized agents and persons with written landowner permission may use a motorized vehicle on their private land; however, they may not hunt from or by the use of any motorized vehicle as prohibited by Section 36-1101(b)(1), Idaho Code. (4-28-04)T

**03. Restricted Areas and Hunts.** This motorized vehicle use restriction shall apply to identified areas and hunts in all Big Game Management Units. The hunts and areas with a motorized vehicle use restriction are identified in the Commission's Big Game Season Proclamation and Upland Game Bird Season Proclamation, which are published in a brochure available at department offices and license vendors. (4-28-04)T

**04. Defined Terms.** (4-28-04)T

**a.** A full-sized automobile shall be defined as any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds. (4-28-04)T

**b.** An established roadway shall be defined as any road that is established, built, maintained, approved or designated by any governmental entity or private landowner for the purpose of travel by full-sized automobiles. An established roadway shows evidence of repeated use by full-sized automobiles, and may include a traveled way of natural earth with depressed wheel tracks and little or no vegetation in the wheel tracks. (4-28-04)T

**c.** A hunter shall be defined as a person engaged in the activity of hunting as defined in Section 36-202(j), Idaho Code. (4-28-04)T

**3023. -- 399. (RESERVED).**

### **400. AREAS CLOSED TO HUNTING OF GAME BIRDS.**

**01. General.** Hunting, killing, or molesting of any game bird is prohibited in the



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following areas: (7-1-93)

a. That area of Craters of the Moon National Monument in Blaine and Butte Counties prior to the November 2000 expansion of the Monument by Presidential decree. It is the hunter's responsibility to check with the Park Service to be able to identify the closed area.

~~(7-1-93)~~(4-28-04)T

b. Hagerman Fossil Beds National Monument in Twin Falls County, EXCEPT that portion within an area fifty (50) feet in elevation above the high water level of the Snake River (the upslope area is marked by yellow fiberglass markers, and hunting is permitted downslope to the river). (3-20-97)

c. Harriman State Park Wildlife Refuge in Fremont County. (7-1-93)

d. Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties. (7-1-93)

e. That portion of Ada County within Veterans Memorial Park and the area between State Highway 21, Warm Springs Avenue and the Boise City limits. (5-3-03)

f. Yellowstone National Park in Fremont County. (7-1-93)

g. Fort Boise Wildlife Management Area (WMA) in Canyon County from September 15 through the end of the waterfowl hunting season in the area enclosed by the following boundary: Beginning at the bridge across Sand Hollow Creek on Old Fort Boise Road approximately one hundred (100) yards west of the WMA headquarters, then north along the east bank of Sand Hollow Creek to its confluence with the Snake River, then north and northeast downstream along the east bank of the Snake River to the WMA boundary fence, then south and southeast along the WMA boundary fence to Old Fort Boise Road, then west on Old Fort Boise Road to the point of beginning. (3-20-97)

h. Roswell Marsh Wildlife Habitat Area in Canyon County on Sundays, Mondays, Tuesdays and Wednesdays from September 15 through the end of the waterfowl hunting season in the area south of Highway 18 and west of Pebble Lane (Roswell Marsh segment). (5-3-03)

i. On any of those portions of federal refuges, State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which bird hunting closures have been declared by legislative or Commission action EXCEPT as otherwise expressly stated below in Section 410 under Game Preserves Open to Hunting of Game Birds. (7-1-93)

j. Mann's Lake in Nez Perce County and extending three hundred (300) yards beyond the Bureau of Reclamation property that encompasses the lake. (4-28-04)T

**02. Migratory Game Birds.** In addition to the areas listed above, hunting, killing, or molesting of any migratory game bird EXCEPT mourning dove is prohibited in the following areas. Areas CLOSED to hunting of migratory game birds: (7-1-93)

a. Fort Hall Indian Reservation in Bingham, Bannock, and Power Counties within

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three hundred (300) yards each way of the Fort Hall Bluffs from Bigbend Boat Launch to the west boundary of the Fort Hall Indian Reservation, and within one hundred (100) yards of any improved roadway or inhabited dwelling any place within the reservation boundary. (7-1-93)

**b.** Hagerman Wildlife Management Area (WMA) in Gooding County in the area enclosed by the following boundary: Beginning at a point two hundred (200) yards west of the point at which U.S. Highway 30 crosses the south bank of Gridley Island, then northwest along a line two hundred (200) yards southwest of and parallel to U.S. Highway 30 to a point two hundred (200) yards west of the junction of U.S. Highway 30 and the WMA entrance, then west and north and east along a line two hundred (200) yards outside of the WMA boundary which is marked by a fence, to the point at which the fence meets U.S. Highway 30, then east and south along a line five hundred (500) yards outside of the WMA boundary to the Snake River, then downstream along the north bank of the Snake River and then along the south bank of Gridley Island to the point where U.S. Highway 30 crosses the south bank of Gridley Island, then two hundred (200) yards west of U.S. Highway 30 to the point of beginning. (7-1-93)

**c.** Hubbard Reservoir in Ada County including the shoreline area within two hundred (200) yards of the existing water line. (7-1-93)

**d.** Mann's Lake in Nez Perce County and extending three hundred (300) yards beyond the Bureau of Reclamation property line that encompasses the lake. (3-15-02)

**e.** Mormon Reservoir in Camas County including the shoreline area within two hundred (200) yards of the ordinary high water line. (7-1-93)

**f.** Pend Oreille River in Bonner County within two hundred (200) yards each way of the ordinary high water line two thousand sixty-two and one-half (2,062.5) feet above sea level from the U.S. Highway 95 long bridge at Sandpoint downstream to an imaginary line between Springy Point on the south side of the river and Dover Peninsula on the north side of the river. (7-1-93)

**g.** Spokane River in Kootenai County from the Post Falls Dam to Lake Coeur d'Alene at the orange pilings, within two hundred (200) yards of the ordinary high water line two thousand one hundred twenty-eight (2,128) feet above sea level. (7-1-98)

**h.** Thompson Lake in Kootenai County in the area enclosed by the following center-of-roadway boundary and in the additional area within one hundred (100) yards of the exterior side of said boundary: Beginning at the junction of State Highway 97 and Thompson Lake Road 317 north of the town of Harrison, then along Thompson Lake Road 317 to the junction of Blue Lake Road 318 east of Thompson Lake, then along Blue Lake Road 318 to the junction of Anderson Lake Road 319 at Springston, then along Anderson Lake Road 319 to the Union Pacific Railroad tracks, then west along the Union Pacific Railroad tracks to the junction of State Highway 97 west of Harrison, then along State Highway 97 to the point of beginning. (7-1-93)

**03. Geese.** Areas CLOSED to the hunting of geese. In addition to the areas listed in Section 301 and Subsection 301.01 above, the hunting, killing, or molesting of any species of geese is prohibited in the following areas: (7-1-93)

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**a.** Canyon County in the area enclosed by the following roadway boundary and within one hundred fifty (150) feet of the exterior side of said boundary (except that the closure shall extend to one hundred (100) yards from the exterior side of said boundary along that section commencing at the junction of Lake Shore Drive and Rim Road, then south on Rim Road to west Lewis Lane, then east on west Lewis Lane to Lake Shore Drive, then along Lake Shore Drive to Emerald Road): Beginning approximately three fourths ( $\frac{3}{4}$ ) of a mile south of the City of Nampa at the junction of State Highway 45 (12th Avenue Road) and Greenhurst Road, then west following Greenhurst Road to its junction with Middleton Road, then north following Middleton Road to its junction with Lake Lowell Avenue, then west following Lake Lowell Avenue to its junction with Lake Avenue, then north following Lake Avenue to its junction with West Roosevelt Avenue, then west following West Roosevelt Avenue to its junction with Indiana Avenue, then north following Indiana Avenue to its junction with State Highway 55 (Karcher Road), then west following State Highway 55 to its junction with Riverside Road, then south following Riverside Road to the Deer Flat National Wildlife Refuge boundary, then west along boundary fence below lower embankment as posted to Lake Shore Drive, then in a southeast direction following Lake Shore Drive to its junction with Marsing Road, then east and south on Lake Shore Drive to Rim Drive, then south on Rim Drive to West Lewis Lane, then east on West Lewis Lane to Lake Shore Drive, then southeast on Lake Shore Drive to State Highway 45, then north on State Highway 45 to its junction with Greenhurst Road, the point of beginning. (7-1-93)

**b.** Hagerman Valley in Gooding and Twin Falls Counties in the area enclosed by the following boundary: Beginning at the Gridley Island Bridge on the Snake River, then south and east on U.S. Highway 30 to Miracle Hot Springs, then east on Twin Falls County 4800 North Road (River Road) to Banbury Hot Springs, then upstream approximately three hundred (300) yards to the Banbury Pipeline crossing the Snake River, then east across the Snake River at the Banbury Pipeline, continuing due east to a point two hundred (200) yards east of the east rim of the Snake River Canyon, then north along a line parallel to and two hundred (200) yards east of the Snake River Canyon rim to the Gooding County 3500 South Road (Camp Roach Road), then east on the 3500 South Road to the 1500 East Road, then north on the 1500 East Road to the 3200 South Road, then west on the 3200 South Road to the 1300 East Road, then north on the 1300 East Road to the 1200 East Road, then northwest and north on the 1200 East Road to the 3000 South Road, then west on the 3000 South Road to a point (which is five hundred (500) yards east of the intersection of the 3000 South Road and the Hagerman National Fish Hatchery Road) five hundred (500) yards east of the Hagerman Wildlife Management Area (WMA) boundary, then north and west five hundred (500) yards outside the Hagerman WMA boundary to U.S. Highway 30, then west and south two hundred (200) yards outside the Hagerman WMA boundary to the 2900 South Road, then west on the 2900 South Road to the 900 East Road, then due south to a point two hundred (200) yards north of the Snake River, then west and north two hundred (200) yards outside the high water line on the east bank of the Snake River to Lower Salmon Dam, then west across the Snake River, then south, southwest and east two hundred (200) yards outside the high water line on the west bank of the Snake River (including the Idaho Power Upper Salmon Dam diversion canal) to the Gridley Bridge on U.S. Highway 30, the point of beginning. (12-7-94)

**c.** Minidoka and Cassia Counties in the area enclosed by the following boundary: Within two hundred (200) yards of the high water line of the Snake River from Milner Dam upstream to Meridian Road (north side of the Snake River) and 650 East Road (south side of the Snake River), approximately six and one-half ( $6\frac{1}{2}$ ) miles east of the City of Burley. (7-1-93)

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### (BREAK IN CONTINUITY OF SECTIONS)

#### 600. PHEASANT SEASONS, BAG AND POSSESSION LIMITS.

*The following seasons, bag and possession limits shall apply:* (10-26-94)

**01. Area 1.** Area 1 includes Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (7-1-93)(4-28-04)T

~~a. Area 1 annual season begins the second Saturday of October and lasts through December 31.~~ (7-1-98)

~~b. Area 1 daily bag limit is three (3) cocks.~~ (7-1-93)

~~c. Area 1 possession limit after the first day of the season is six (6) cocks.~~ (7-1-93)

**02. Area 2.** Area 2 includes Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Minidoka, Oneida, Power, Twin Falls, and Teton counties. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (5-3-03)(4-28-04)T

~~a. Area 2 annual season begins at noon on the third Saturday of October and lasts through November 30.~~ (7-1-99)

~~b. Area 2 daily bag limit is three (3) cocks.~~ (5-3-03)

~~c. Area 2 possession limit after the first day of the season is six (6) cocks. EXCEPT Market Lake Wildlife Management Area and Mud Lake Wildlife Management Area in Jefferson County, Cartier Wildlife Management Area in Madison County, and Sterling Wildlife Management Area in Bingham County is four (4) cocks.~~ (3-30-01)

**03. Area 3.** Area 3 includes Ada, Adams, Boise, Blaine, Camas, Canyon, Elmore, Gem, Gooding, Jerome, Lincoln, Owyhee, Payette, Twin Falls, Valley, and Washington Counties (including all islands in the Snake River EXCEPT PATCH AND PORTER ISLANDS). Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (5-3-03)(4-28-04)T

~~a. Area 3 annual season begins at noon (12:00 pm) on opening day, the third Saturday of October, and lasts through December 31.~~ (7-1-99)

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~~**b.** Patch and Porter Islands: Opening Date is the third Saturday of October. Closing Dates: (Will be the same as those set for these areas by the Oregon Fish and Game Commission. Check with Idaho regional offices for dates or see Oregon small game regulations.) (10-26-94)~~

~~**c.** Area 3 daily bag limit is three (3) cocks. (5-3-03)~~

~~**d.** Area 3 possession limit after the first day of the season is six (6) cocks. (5-3-03)~~

### **04. WMA Pheasant Permit. (10-26-94)**

**a.** Permit Requirement. Any person seventeen (17) years of age or older hunting for or having a pheasant in his or her possession on ~~any of the Wildlife Management Areas listed in Subsections 600.02 and 600.03~~ Fort Boise, C.J. Strike, Montour, Payette River, Sterling, Market Lake, Mud Lake, Cartier, or Niagara Springs Wildlife Management Areas must have a valid WMA Pheasant Permit in his or her possession. ~~(3-30-01)(4-28-04)T~~

**b.** Permit Limit. The WMA Pheasant Permit limit is six (6) cocks. Additional permits may be purchased. (5-3-03)

**c.** Recording Harvest. Any person harvesting a pheasant on any of the Wildlife Management Areas listed in Subsections ~~600.02~~4.a. ~~and 600.03~~ must immediately record their harvest, in writing, on the back of their permit. ~~(3-30-01)(4-28-04)T~~

### **05. Youth Pheasant Season. This season shall be open statewide. (7-1-99)**

**a.** ~~The Youth Pheasant Season begins on the first weekend of October and lasts two (2) days. In Areas 2 and 3 listed under this section, the season begins at noon.~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(7-1-99)(4-28-04)T~~

**b.** The Youth Pheasant Season shall be open for all licensed hunters fifteen (15) years of age or younger. All youth hunters must be accompanied by an adult eighteen (18) years or older. One (1) adult may take more than one (1) youth hunter. (5-3-03)

~~**c.** The Youth Pheasant Season daily bag is three (3) cocks. (5-3-03)~~

~~**d.** The Youth Pheasant Season possession limit after the first day of the season is six (6) cocks. (5-3-03)~~

### **601. CHUKAR PARTRIDGE SEASONS, BAG AND POSSESSION LIMITS.**

~~The following seasons, bag and possession limits apply statewide: (3-30-01)~~

**01. ~~Season.~~** ~~Annual season begins the third Saturday of September and lasts through January 15.~~ **Area 1.** Area 1 includes, Ada, Adams, Benewah, Boise, Bonners, Boundary, Canyon, Clearwater, Gem, Idaho, Kootenai, Latah, Lewis, Nez Perce, Payette, Shoshone, Valley, Washington, Owyhee County west of the following boundary: beginning at the Idaho-Nevada border and the Jarbidge River, then north along the Jarbidge River to its confluence with the

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Bruneau River, then north along the Bruneau River to Bruneau, then north on State Highway 51 to the Owyhee-Elmore county line. Also included, is that portion of Elmore County west of the following boundary: beginning at State Highway 51 and the Owyhee-Elmore County line, then north on State Highway 51 to Interstate 84, then north on U.S. Highway 20 to the Anderson Ranch Dam Road (Forest Service Road 134), then up the center of Anderson Ranch Reservoir to the confluence of Fall Creek, then up Forest Service Road 129 to its junctions with Forest Service Road 156, then southeast on Forest Service Road 156 to Rocky Bar, then northeast on Forest Service Road 126 to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(3-30-01)(4-28-04)T~~

**02.** ~~Limit. Daily bag limit is eight (8).~~ **Area 2.** Area 2 includes, Lemhi County, not including Birch Creek Valley, and Custer County in the Salmon River drainage. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(3-30-01)(4-28-04)T~~

**03.** ~~Possession Limit. Possession limit after the first day of the season is sixteen (16).~~ **Area 3.** Area 3 includes, Fremont, Clark, Lemhi County within Birch Creek Valley, Custer County within the big Lost Valley and the Little Lost Valley, Blaine, Camas, Owyhee County east of the following boundary: beginning at the Idaho-Nevada border and the Jarbidge River, then north along the Jarbidge River to its confluence with the Bruneau River, then north along the Bruneau River to Bruneau, then north on State Highway 51 to the Owyhee-Elmore county line. Also included, is that portion of Elmore County east of the following boundary: beginning at State Highway 51 and the Owyhee-Elmore County line, then north on State Highway 51 to Interstate 84, then north on U.S. Highway 20 to the Anderson Ranch Dam Road (Forest Service Road 134), then up the center of Anderson Ranch Reservoir to the confluence of Fall Creek, then up Forest Service Road 129 to its junctions with Forest Service Road 156, then southeast on Forest Service Road 156 to Rocky Bar, then northeast on Forest Service Road 126 to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(3-30-01)(4-28-04)T~~

### 602. GRAY PARTRIDGE SEASONS, BAG AND POSSESSION LIMITS.

~~The following seasons, bag and possession limits apply statewide:~~

~~(3-30-01)~~

**01.** ~~Season. Annual season begins the third Saturday of September and lasts through January 15.~~ **Area 1.** Area 1 includes, Ada, Adams, Benewah, Boise, Bonners, Boundary, Canyon, Clearwater, Gem, Idaho, Kootenai, Latah, Lewis, Nez Perce, Payette, Shoshone, Valley, Washington, Owyhee County west of the following boundary: beginning at the Idaho-Nevada border and the Jarbidge River, then north along the Jarbidge River to its confluence with the Bruneau River, then north along the Bruneau River to Bruneau, then north on State Highway 51 to the Owyhee-Elmore county line. Also included, is that portion of Elmore County west of the following boundary: beginning at State Highway 51 and the Owyhee-Elmore County line, then

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north on State Highway 51 to Interstate 84, then north on U.S. Highway 20 to the Anderson Ranch Dam Road (Forest Service Road 134), then up the center of Anderson Ranch Reservoir to the confluence of Fall Creek, then up Forest Service Road 129 to its junctions with Forest Service Road 156, then southeast on Forest Service Road 156 to Rocky Bar, then northeast on Forest Service Road 126 to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(3-30-01)(4-28-04)T~~

**02.** ~~Limit. Daily bag limit is eight (8).~~ **Area 2.** Area 2 includes, Lemhi County, not including Birch Creek Valley, and Custer County in the Salmon River drainage. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(3-30-01)(4-28-04)T~~

**03.** ~~Possession Limit. Possession limit after the first day of the season is sixteen (16).~~ **Area 3.** Area 3 includes, Fremont, Clark, Lemhi County within Birch Creek Valley, Custer County within the big Lost Valley and the Little Lost Valley, Blaine, Camas, Owyhee County east of the following boundary; beginning at the Idaho-Nevada border and the Jarbidge River, then north along the Jarbidge River to its confluence with the Bruneau River, then north along the Bruneau River to Bruneau, then north on State Highway 51 to the Owyhee-Elmore county line. Also included, is that portion of Elmore County east of the following boundary: beginning at State Highway 51 and the Owyhee-Elmore County line, then north on State Highway 51 to Interstate 84, then north on U.S. Highway 20 to the Anderson Ranch Dam Road (Forest Service Road 134), then up the center of Anderson Ranch Reservoir to the confluence of Fall Creek, then up Forest Service Road 129 to its junctions with Forest Service Road 156, then southeast on Forest Service Road 156 to Rocky Bar, then northeast on Forest Service Road 126 to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(3-30-01)(4-28-04)T~~

### 603. BOBWHITE QUAIL AND CALIFORNIA QUAIL SEASONS, BAG AND POSSESSION LIMITS.

~~The following seasons, bag and possession limits shall apply:~~ ~~(10-26-94)~~

**01.** **Area 1.** Area 1 includes Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power, and Teton Counties. Season for quail in Area 1 is CLOSED. (5-3-03)

**02.** **Area 2.** Area 2 includes Ada, Adams, Benewah, Blaine, Boise, Bonner, Boundary, ~~Camas,~~ Canyon, ~~Cassia,~~ Clearwater, ~~Elmore,~~ Gem, ~~Gooding,~~ Idaho, ~~Jerome,~~ Kootenai, Latah, Lewis, ~~Lincoln,~~ ~~Minidoka,~~ Nez Perce, ~~Owyhee,~~ Payette, Shoshone, ~~Twin Falls,~~ Valley, ~~and~~ Washington ~~Counties,~~ Owyhee County west of the following boundary: beginning at the Idaho-Nevada border and the Jarbidge River, then north along the Jarbidge River to its confluence with the Bruneau River, then north along the Bruneau River to Bruneau, then north on State Highway

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51 to the Owyhee-Elmore county line. Also included, is that portion of Elmore County west of the following boundary: beginning at State Highway 51 and the Owyhee-Elmore County line, then north on State Highway 51 to Interstate 84, then north on U.S. Highway 20 to the Anderson Ranch Dam Road (Forest Service Road 134), then up the center of Anderson Ranch Reservoir to the confluence of Fall Creek, then up Forest Service Road 129 to its junctions with Forest Service Road 156, then southeast on Forest Service Road 156 to Rocky Bar, then northeast on Forest Service Road 126 to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(5-3-03)~~(4-28-04)T

~~a. Area 2 annual season begins the third Saturday of September and lasts through December 31.~~ ~~(7-1-99)~~

~~b. Area 2 daily bag limit is ten (10) of any kind.~~ ~~(7-1-98)~~

~~c. Area 2 possession limit after the first day of the season is twenty (20) of any kind.~~ ~~(7-1-98)~~

**03. Area 3.** Area 3 includes Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls counties, and also included is that portion of Owyhee County east of the following boundary: beginning at the Idaho-Nevada border and the Jarbidge River, then north along the Jarbidge River to its confluence with the Bruneau River, then north along the Bruneau River to Bruneau, then north on State Highway 51 to the Owyhee-Elmore county line. Also included, is that portion of Elmore County east of the following boundary: beginning at State Highway 51 and the Owyhee-Elmore County line, then north on State Highway 51 to Interstate 84, then north on U.S. Highway 20 to the Anderson Ranch Dam Road (Forest Service Road 134), then up the center of Anderson Ranch Reservoir to the confluence of Fall Creek, then up Forest Service Road 129 to its junctions with Forest Service Road 156, then southeast on Forest Service Road 156 to Rocky Bar, then northeast on Forest Service Road 126 to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(4-28-04)~~T

### **604. FOREST GROUSE (BLUE, RUFFED, AND SPRUCE).**

~~The following seasons, bag and possession limits apply statewide.~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(10-26-94)~~(4-28-04)T

~~01. Season. September 1 through December 31, annually.~~ ~~(10-26-94)~~

~~02. Limit. Daily bag limit is four (4) of any kind.~~ ~~(7-1-98)~~

~~03. Possession Limit. Possession limit after the first day of the season is eight (8) of~~



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~~any kind.~~ (7-1-98)

#### 605. SAGE GROUSE SEASONS, BAG AND POSSESSION LIMITS.

~~The following seasons, bag and possession limits shall apply:~~ (5-16-94)

**01. Area 1.** Ada, Adams, Benewah, Blaine County within the Salmon River drainage, Boise, Bonner, Boundary, Canyon, Cassia County south of Interstate 86 and east of Interstate 84, Clearwater, Custer County within the Salmon River drainage upstream from and including Valley Creek, Elmore County EXCEPT that portion south and east of US Highway 20 and north of Interstate 84, Payette, Power County south of Interstate 86, Shoshone, Valley, and Washington counties—~~CLOSED~~. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (5-3-03)(4-28-04)T

**02. Area 2.** Bannock, Bear Lake, Bingham, Blaine County east of the Arco-Minidoka road, Bonneville, Butte County south of US Highways 20/26 and 22/33 and the entire Birch Creek drainage, Caribou, Cassia EXCEPT that portion south of Interstate 86 and east of Interstate 84, Clark, Franklin, Fremont, Jefferson, Lemhi County within the Birch Creek drainage, Madison, Oneida EXCEPT that portion north and east of Interstate 84, Owyhee County north of the Juniper Mountain/Mud Flat/Poison Creek roads and Highway 78 to Grandview and the Snake River, Owyhee County east of the Bruneau River, Power County north of Interstate 86, Twin Falls and Teton County north of Interstate 86, Twin Falls and Teton counties. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (5-3-03)(4-28-04)T

~~a. Area 2 annual season begins the third Saturday of September and lasts seven (7) days.~~ (7-1-98)

~~b. Area 2 daily bag limit is one (1).~~ (7-1-98)

~~c. Area 2 possession limit after the first day of the season is two (2).~~ (7-1-98)

**03. Area 3.** Blaine County EXCEPT that part within the Salmon River drainage and that part east of the Arco-Minidoka Road, that part of Butte County north of US Highway 22/33 not within the Birch Creek drainage, and that part west of the Arco-Minidoka Road, Camas, Custer County EXCEPT that portion within the Salmon River drainage upstream from and including Valley Creek, Elmore County south and east of US Highway 20 and north of Interstate 84, Gooding, Jerome, Lemhi County EXCEPT that portion within the Birch Creek drainage, Lincoln, Minidoka, Owyhee County south of the Juniper Mountain/Mud Flat/Poison Creek roads and Highway 78 to Grandview and the Snake River and west of the Bruneau River. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (5-3-03)(4-28-04)T

#### 606. SHARP-TAILED GROUSE SEASONS, BAG AND POSSESSION LIMITS.

~~The following seasons, bag and possession limits shall apply:~~ (5-16-94)

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**01. Area 1.** Area 1 includes the following counties or portions of counties: Ada, Adams, Bannock County west of Interstate 15 and north of Interstate 86, Benewah, Bingham County west of Interstate 15, Blaine, Boise, Bonner, Bonneville County west of Interstate 15, Boundary, Butte, Camas, Canyon, Cassia County west of Interstate 84 north of the Malta-Sublett Road and west of the Malta-Strevell Road, Clark County west of Interstate 15, Clearwater, Custer, Elmore, Gem, Gooding, Idaho, Jefferson County west of Interstate 15, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, Power County north of Interstate 86, Shoshone, Twin Falls, Valley, and Washington County. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors.

~~(5-16-94)(4-28-04)T~~

~~a. Season for sharp-tailed grouse in Area 1 is CLOSED. (5-16-94)~~

**02. Area 2.** Area 2 includes the following counties or portions of counties: Bingham County east of Interstate 15, Bonneville County east of Interstate 15, Clark County east of Interstate 15, Fremont, Jefferson County east of Interstate 15, Madison, Teton County, Bannock County east of Interstate 15 and south of Interstate 86, Bear Lake County, Caribou County, Cassia County east of Interstate 84 and that portion west of Interstate 84 south of the Malta-Sublett Road and east of the Malta-Strevell Road, Franklin County, Oneida County, and Power County south of Interstate 86. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors.

~~(3-30-01)(4-28-04)T~~

~~a. Area 2 annual season begins October 1 and lasts through October 31. (3-30-01)~~

~~b. Area 2 daily bag limit is two (2). (5-16-94)~~

~~c. Area 2 possession limit after the first day of the season is four (4). (5-16-94)~~

### (BREAK IN CONTINUITY OF SECTIONS)

#### **616. SANDHILL CRANE SEASONS AND BAG AND POSSESSION LIMITS.**

~~The following seasons, bag and possession limits, and permits shall apply:~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors.

~~(7-1-98)(4-28-04)T~~

**01. Controlled Hunts.** Controlled hunt areas include the following: (7-1-98)

**a.** Area 1 includes all of Bear Lake County and all of Caribou County EXCEPT that portion downstream from the dam at Alexander Reservoir south of U.S. Highway 30, and that portion lying within the Grays Lake Basin. (5-3-03)

**b.** Area 2 includes all of Teton County. (5-3-03)

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- c. Area 3 includes all of Fremont County. (5-3-03)

**02. Controlled Hunt Seasons, Bag and Possession Limits, and Permits.**

HUNT AREA	HUNT NUMBER	SEASON	PERMITS
1	9501	September 1-2	80
1	9502	September 3-5	80
1	9503	September 6-8	35
1	9504	September 9-11	35
1	9505	September 12-15	33
1	9506	September 1-7	40
1	9507	September 8-15	35
2	9508	September 1-7	40
2	9509	September 8-15	35
NOTE: Daily limit is two (2) for all hunts. The season limit is nine (9).			

(5-3-03)

**617. -- 619. (RESERVED).**

**620. EARLY SEPTEMBER CANADA GOOSE SEASONS AND BAG AND POSSESSION LIMITS.**

- 01. General Hunts.** General hunts include the following: All of Nez Perce County  
EXCEPT: (5-3-03)

a. Mann Lake closure in Lewiston Orchards. This includes all of the lake and three hundred (300) yards beyond the Bureau of Reclamation property encompassing the lake. (5-3-03)

b. Lewiston Preserve along the Clearwater River from Lewiston City limits to Spalding between Highway 12-95 on the north side of the river and the Camas Prairie Railroad on the south side. (5-3-03)

c. Lewiston City limits on the Clearwater River and the Snake River. (5-3-03)

d. Hellsgate State Park along the Snake River from the north end of the park upstream to the basalt bluffs opposite Asotin. (5-3-03)

**02. General Hunt Seasons, Bag and Possession Limits, and Permits.** Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(7-1-98)(4-28-04)T~~

## House Resource and Conservation Committee

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### DEPARTMENT OF FISH AND GAME Rules Governing the Taking of Game Birds

Docket No. 13-0109-0401  
PENDING RULE

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- ~~a. Season: September 7, 2002 through September 13, 2002. (5-3-03)~~
- ~~b. Possession limit after the first day of the season: Eight (8). (7-1-98)~~
- ~~c. Daily bag limit: Four (4). (7-1-98)~~

### (BREAK IN CONTINUITY OF SECTIONS)

#### 900. MIGRATORY GAME BIRD SEASONS, BAG AND POSSESSION LIMITS.

~~The following season, bag, and possession limits shall apply to each species as follows: (7-1-93)~~

**01. Mourning Dove.** Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(7-1-93)(4-28-04)T~~

~~a. The following season dates apply STATEWIDE: September 1 through September 30, annually. (10-26-94)~~

~~b. Daily bag limit is ten (10). (7-1-93)~~

~~c. Possession limit after the first day of the season is twenty (20). (7-1-93)~~

**02. Ducks Including Mergansers and American Coot.** (7-1-93)

**a.** Area 1 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 1 and includes the following counties: Bannock; Bingham EXCEPT that portion within the Blackfoot Reservoir drainage; Power east of State Highway 37 and State Highway 39; and, all lands, including private holdings, within the Fort Hall Indian Reservation. (3-30-01)

**b.** Area 2 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 2 and includes the following counties or portions of counties: Adams; Bear Lake; Benewah; Bingham within the Blackfoot Reservoir drainage; those portions of Blaine west of State Highway 75, south and east of U.S. Highway 93, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 outside the Silver Creek drainage; Bonner; Bonneville; Boundary; Butte; Camas; Caribou EXCEPT the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Clearwater; Custer; Elmore within the Camas Creek drainage; Franklin; Fremont; Idaho; Jefferson; Kootenai; Latah; Lemhi; Lewis; Madison; Nez Perce; Oneida; Power within the Minidoka National Wildlife Refuge; Shoshone; Teton; and Valley Counties. (3-30-01)

**c.** Area 3 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 3 and includes the following counties or portions of counties: Ada; those portions of Blaine between State Highway 75 and U.S. Highway 93 south of U.S. Highway 20, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 within the Silver Creek drainage; Boise; Canyon; Cassia EXCEPT the Minidoka National Wildlife Refuge; Elmore EXCEPT the

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### **DEPARTMENT OF FISH AND GAME Rules Governing the Taking of Game Birds**

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Camas Creek drainage; Gem; Gooding; Jerome; Lincoln; Minidoka; Owyhee; Payette; Power west of State Highway 37 and State Highway 39 EXCEPT the Minidoka National Wildlife Refuge; Twin Falls; and Washington Counties. (3-30-01)

**d.** Please see the Waterfowl brochure, which contains the Commission's proclamation setting seasons, bag and possession limits. (3-30-01)

#### **03. Common Snipe. (7-1-93)**

**a.** Area 1 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 1 and includes the following counties or portions of counties: Bannock; Bingham EXCEPT that portion within the Blackfoot Reservoir drainage; Power east of State Highway 37 and State Highway 39; and all lands, including private holdings, within the Fort Hall Indian Reservation. (3-30-01)

**b.** Area 2 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 2 and includes the following counties or portions of counties: Adams; Bear Lake; Benewah; Bingham within the Blackfoot Reservoir drainage; those portions of Blaine west of State Highway 75, south and east of U.S. Highway 93, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 outside the Silver Creek drainage; Bonner; Bonneville; Boundary; Butte; Camas; Caribou EXCEPT the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Clearwater; Custer; Elmore within the Camas Creek drainage; Franklin; Fremont; Idaho; Jefferson; Kootenai; Latah; Lemhi; Lewis; Madison; Nez Perce; Oneida; Power within the Minidoka National Wildlife Refuge; Shoshone; Teton; and Valley Counties. (3-30-01)

**c.** Area 3 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 3 and includes the following counties or portions of counties: Ada; those portions of Blaine between State Highway 75 and U.S. Highway 93 south of U.S. Highway 20, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 within the Silver Creek drainage; Boise; Canyon; Cassia EXCEPT the Minidoka National Wildlife Refuge; Elmore EXCEPT the Camas Creek drainage; Gem; Gooding; Jerome; Lincoln; Minidoka; Owyhee; Payette; Power west of State Highway 37 and State Highway 39 EXCEPT the Minidoka National Wildlife Refuge; Twin Falls; and Washington Counties. (3-30-01)

**d.** Please see the Waterfowl brochure, which contains the Commission's proclamation setting seasons, bag and possession limits. (3-30-01)

#### **04. Geese Including Dark Geese - Black Brant, Canada, Emperor, and White-Fronted, and Light Geese - Ross' and Snow. (9-1-93)**

**a.** Area 1 includes the following counties: Benewah; Bonner; Boundary; Clearwater; Idaho; Kootenai; Latah; Lewis; Nez Perce; and Shoshone Counties. (9-1-93)

**b.** Area 2 includes the following counties or portions of counties: Ada; Adams; Boise; Canyon; those portions of Elmore north and east of Interstate 84, and south and west of Interstate 84 west of State Highway 51, EXCEPT that portion within the Camas Creek drainage; Gem; Owyhee west of State Highway 51; Payette; Valley; and Washington Counties. (9-1-93)

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### **DEPARTMENT OF FISH AND GAME Rules Governing the Taking of Game Birds**

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**c.** Area 3 includes the following counties or portions of counties: Blaine; Camas; Cassia; those portions of Elmore south of Interstate 84 east of State Highway 51, and within the Camas Creek drainage; Gooding; Jerome; Lincoln; Minidoka; Owyhee east of State Highway 51; Power within the Minidoka National Wildlife Refuge; and Twin Falls Counties. (7-1-99)

**d.** Area 4 includes the following counties or portions of counties: Bear Lake; Bingham within the Blackfoot Reservoir drainage; Bonneville; Butte; Caribou EXCEPT the Fort Hall Indian Reservation; Clark; Custer; Franklin; Fremont; Jefferson; Lemhi; Madison; Oneida; Power west of State Highway 37 and State Highway 39 EXCEPT the Minidoka National Wildlife Refuge; and Teton Counties. EXCEPT, Fremont and Teton Counties are CLOSED to the taking of light geese. (7-1-99)

**e.** Area 5 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 1 and includes the following counties or portions of counties: Bannock; Bingham EXCEPT that portion within the Blackfoot Reservoir drainage; Power east of State Highway 37 and State Highway 39; and, all lands, including private holdings, within the Fort Hall Indian Reservation. (7-1-93)

**f.** Please see the Waterfowl brochure, which contains the Commission's proclamation setting seasons, bag and possession limits. (3-30-01)

#### **05. Youth Waterfowl Hunting Day.** (7-1-98)

**a.** The youth waterfowl hunting day is open only to youth from twelve (12) through fifteen (15) years of age. Any youth participating must: (7-1-98)

**i.** Have in his or her possession the appropriate, valid hunting license. (The Idaho Migratory Waterfowl Stamp and the Federal Migratory Bird stamp are not required (Idaho Code 36-414; Title 50 Code of Federal Regulations, Part 20)). (7-1-98)

**ii.** Be accompanied in the field at all times by at least one (1) adult eighteen (18) years of age or older, having in his or her possession a valid hunting license. (7-1-98)

**b.** Please see the Waterfowl brochure, which contains the Commission's proclamation setting seasons, bag and possession limits. (3-30-01)

# House Resource and Conservation Committee

## IDAPA 13 - DEPARTMENT OF FISH AND GAME

### 13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 36-104(b) and 36-901, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rules made biennial season settings and rule adjustments for fishing. It clarifies the definitions of float tube and snagging, and clarify steelhead and salmon rules.**

**The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 294 through 303.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

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#### *The Following Notice Was Published With The Temporary And Proposed Rule*

**EFFECTIVE DATE:** The effective date of the temporary rule is December 8, 2003.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-901, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

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**DEPARTMENT OF FISH AND GAME**  
**Rules Governing Fish**

**Docket No. 13-0111-0401**  
**PENDING RULE**

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The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Biennial season setting and rule adjustment for fishing. Clarify the definitions of float tube and snagging. Clarify steelhead and salmon rules.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to fishermen and allows the fishing seasons to continue uninterrupted.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the fishing seasons without interruption and to publish the Fishing Seasons Proclamation Brochure.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Fred Partridge (208) 287-2773.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 20th day of August, 2004.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707  
(208) 334-3715  
Fax (208) 334-2148

**THE FOLLOWING IS THE TEXT OF THE PENDING RULE**



## House Resource and Conservation Committee

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### DEPARTMENT OF FISH AND GAME Rules Governing Fish

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Docket No. 13-0111-0401  
PENDING RULE

#### 004. DEFINITIONS.

For the purposes of this chapter, the following terms will be defined as follows: (3-20-97)

**01. Artificial Fly.** Any fly made entirely of rubber, wood, metal, glass, feather, fiber, or plastic by the method known as fly tying. (3-20-97)

**02. Artificial Lure.** Any device made entirely of rubber, wood, metal, glass, feather, fiber, or plastic with hook or hooks attached. No bait of any kind may be used with artificial lures when fishing artificial flies and lures-only waters. (3-20-97)

**03. Bag Limit.** The maximum number of fish that may be lawfully taken by any one (1) person in one (1) day. The term “bag limit” shall be construed to be an individual, independent effort and shall not be interpreted in any manner as to allow one (1) individual to take more than his “bag limit” toward filling the “bag limit” of another. The bag and possession limits are equal except for salmon and steelhead. (3-20-97)

**04. Bait.** Organic substances, other than rubber, wood, feather, fiber, or plastic, attached to a hook to attract fish. Bait includes insects, insect larvae, worms, dead fish, fish parts, any other animal or vegetable matter, or scented synthetic materials. (Live fish prohibited.) (See: Subsection 004.20 - NO BAIT.) (3-20-97)

**05. Barbless Hook.** A fish hook without barbs or on which barbs have been bent completely closed. (3-20-97)

**06. Catch-And-Release.** A fishing restriction applied to a body of water requiring that all game fish, except whitefish and brook trout, must be released immediately, unharmed, back to the water. Only artificial flies or lures with one (1) barbless hook may be used in waters designated catch-and-release; bait is prohibited. It is permissible to use up to five (5) flies or lures, each with only one (1) barbless hook, per line. Whitefish and brook trout landed from catch-and-release waters may be retained in possession. (3-20-97)

**07. Closed To Harvest.** Effort, by permitted methods, to catch or attempt to catch a fish or group of fish is lawful, with the restriction that any fish or group of fish so caught must be released immediately back to the water. (3-20-97)

**08. Confluence Of A Stream Or River.** The point where two (2) rivers or streams come together. (3-20-97)

**09. Electric Motors Only.** When fishing waters listed “electric motors only”, gas (internal combustion) motors may be attached to the boat; but use of the gas motor is prohibited. (3-20-97)

**10. Fishing.** Any effort made to take, kill, injure, capture, or catch any fish, crayfish, or bullfrog. (3-20-97)

**11. Float Tube.** A floating device ~~which~~ that suspends a single occupant, ~~with his/her body~~ from the ~~waist~~ seat down, in the water, and is not propelled by oars, paddles, or motors.

## House Resource and Conservation Committee

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### DEPARTMENT OF FISH AND GAME Rules Governing Fish

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PENDING RULE

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~~(3-20-97)~~(12-8-03)T

12. **Fly Fishing.** Fishing with a fly rod, fly reel, fly line, and artificial fly. (3-20-97)
13. **Game Fish.** Brook, brown, bull (Dolly Varden), cutthroat, golden, lake (Mackinaw), rainbow (including steelhead), splake and sunapee trout; trout hybrids; ~~e~~Chinook, coho, Atlantic and kokanee (blueback) salmon; grayling; whitefish; cisco; crappie; perch; bass; catfish; bullheads; sunfish; sturgeon; northern pike; tiger muskie; walleye and sauger; and burbot (ling). Bullfrogs and crayfish are also defined as game fish. ~~(3-20-97)~~(12-8-03)T
14. **Harvest.** Reduce a fish to possession. (3-20-97)
15. **Hook.** A bent wire device, for the catching of fish, to which one (1), two (2), or three (3) points may be attached to a single shank. Up to five (5) hooks per line may be used, except where specifically prohibited. (3-20-97)
16. **Ice Fishing.** Fishing through an opening broken or cut through the ice. (3-20-97)
17. **Length.** The length between the tip of the nose or jaw and the tip of the tail fin. (3-20-97)
18. **Motor.** Includes electric and internal combustion motors. (See Subsection 004.09 - Electric Motors Only.) (3-20-97)
19. **Mouth Of River Or Stream.** The place where a river or stream enters a larger body of water. (3-20-97)
20. **No Bait.** Requires the use of artificial flies or lures, with one (1) barbless hook ONLY per fly or lure. (3-20-97)
21. **No Motors.** Fishing from a boat with a motor attached is prohibited. (3-20-97)
22. **Possession Limit.** Maximum number of fish that may be lawfully in possession of any person. "Possession limit" shall apply to fish while in the field or being transported to the final place of consumption or storage. (3-20-97)
23. **Reservoir.** The flat water level existing at any time within a reservoir basin. Unless noted otherwise, a stream flowing through the drawdown portion of a reservoir is not considered part of the reservoir. (3-20-97)
24. **Season Limit.** The maximum number of fish that may be lawfully taken in any declared season. (3-20-97)
25. **Snagging.** Taking or attempting to take a fish by ~~hooking other than in the mouth or head~~ use of a hook or lure in any manner or method other than enticing or attracting a fish to strike with, and become hooked in, its mouth or jaw. Game fish which are hooked other than in the ~~head~~ jaw or mouth must be released immediately. ~~(3-20-97)~~(12-8-03)T

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### DEPARTMENT OF FISH AND GAME Rules Governing Fish

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**26. Steelhead.** Rainbow trout longer than twenty (20) inches in length in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage (excluding lakes and the Lemhi and the Pahsimeroi rivers), and the Clearwater River drainage (excluding that portion above Dworshak Dam, and lakes). Rainbow trout longer than twenty (20) inches in length with the adipose fin ~~missing~~ clipped (as evidenced by a healed scar) are defined as steelhead in the Snake River from Hells Canyon Dam upstream to Oxbow Dam, and in the Boise River from its mouth upstream to Barber Dam, and in the Payette River from its mouth upstream to Black Canyon Dam during steelhead seasons. ~~(3-20-97)~~(12-8-03)T

**27. Tributary.** A stream flowing into a larger stream or lake. (3-20-97)

**28. Trout.** Includes the following trout family fishes: brook, brown, cutthroat, golden, grayling, lake (Mackinaw), rainbow, splake, Sunapee; trout hybrids; and the landlocked forms of Chinook, coho, Atlantic and kokanee (blueback) salmon. (12-8-03)T

**289. Unattended Line.** A line not under the immediate surveillance by the angler. (3-20-97)

**2930. Unprotected Nongame Fish.** All fish species other than game fish and protected species of special concern. (3-20-97)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 201. FISHING METHODS AND GEAR.

Unless modified by a regional exception, the following fishing methods and restrictions are applicable in all Idaho waters. (3-20-97)

**01. Archery And Spear Fishing.** Fishing with the use of bow and arrow, crossbow, spear or mechanical device, excluding firearms, is permitted for the taking of bullfrogs and unprotected nongame fish, and only in those waters during the season set for the taking of game fish. (7-1-99)

**02. Bait Restricted.** It is unlawful to fish with bait in waters designated as artificial flies and lures only, fly fishing only, no bait, or catch-and-release. (3-20-97)

**03. Barbed Hooks.** It is unlawful to fish for sturgeon with barbed hooks. It is unlawful to fish for or take steelhead with barbed hooks in the Clearwater River drainage, Salmon River drainage, and Snake River drainage below Hells Canyon Dam. It is unlawful to fish in artificial flies and lures only waters, or catch-and-release waters with barbed hooks. (3-20-97)

**04. Fishing Gear.** It is unlawful to fish in any waters of Idaho with more than one (1) handline or pole with a line attached, except a person with a two (2) pole validation may use two (2) poles; or with more than five (5) lines while ice fishing; or by archery, spearfishing, snagging, hands, and netting except as permitted. Not more than five (5) hooks may be attached per line. The line or lines must be attended by the person fishing. ~~(3-20-97)~~(12-8-03)T

## House Resource and Conservation Committee

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### DEPARTMENT OF FISH AND GAME Rules Governing Fish

*Docket No. 13-0111-0401*  
**PENDING RULE**

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**05. Fishing Shelters.** Any enclosure or shelter which is left unattended overnight on the ice of any waters of the state shall have the owner's name, telephone numbers, and current address legibly marked on two (2) opposing sides of the enclosure or shelter. (7-1-99)

**06. Gaff Hook.** It is unlawful to land fish of any species with a gaff hook except through a hole cut or broken in the ice in waters which have no length restrictions or harvest closures for that species. (3-20-97)

**07. Molesting Fish.** It is unlawful to molest any fish by shooting at it with a firearm or pellet gun, striking at it with a club, hands, rocks, or other objects, building obstructions for catching fish, or chasing fish up or downstream in any manner. (3-20-97)

**08. Snagging.** It is unlawful to snag game fish, unless otherwise stated by Commission rules/exceptions. Snagging of unprotected nongame fish species is permitted. (3-20-97)

**09. Trapping And Seining Minnows Or Crayfish.** It is lawful to take the young of unprotected nongame fish, crayfish, and yellow perch with a minnow net, seine, or up to five (5) traps, provided the seine or net does not exceed four (4) feet in length or width, and the minnow or crayfish trap does not exceed eighteen (18) inches in length or twelve (12) inches in diameter or width. If the trap is of irregular dimension, but its volume does not exceed the volume of an eighteen by twelve by twelve inches (18"x12"x12") trap, it is also lawful to use. All fish so taken must immediately be killed except where stated otherwise. All traps must have a tag attached bearing the owner's name and address. Minnows and crayfish may only be taken during the season set for the taking of game fish in those waters. (3-20-97)

**10. Use Of Bait.** It is unlawful to use live fish as bait, except that live crayfish and bull frogs may be used if caught on the body of water being fished. (3-20-97)

**11. Use Of Hands.** It is lawful to take bull frogs and crayfish with the hands. (3-20-97)

### **202. BAG AND POSSESSION LIMITS.**

**01. Bag Limit.** Maximum number of fish that may be lawfully taken by one (1) person in one (1) day. The bag and possession limits are equal, except where listed in region exceptions and for salmon and steelhead. (3-20-97)

**02. Possession Limit.** Maximum number of fish that may be lawfully in possession of any one (1) person. Possession limit shall apply to fish while in the field or being transported. All fish that are hooked, landed and not immediately released shall be counted in the possession limit of the person hooking the fish. (3-20-97)

**03. Transport Or Gift.** No person shall transport for another or accept as a gift any game fish unless a statement signed by taker accompanies the fish, showing the number and kinds, the date taken, the taker's name, address, and fishing license number. However, no person may claim ownership of more fish than allowed by the possession limit. (7-1-99)

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## DEPARTMENT OF FISH AND GAME Rules Governing Fish

Docket No. 13-0111-0401  
PENDING RULE

### 04. Table On Bag And Possession Limits For Specified Fish.

SPECIES	BAG AND POSSESSION LIMITS	
BASS - Largemouth and Smallmouth	5 6	In the aggregate of both species, NONE under 12 inches.
BROOK TROUT	<del>40</del> 25	<del>In addition to the trout limit on any water.</del>
BULL TROUT (Dolly Varden)	NONE	There is no harvest season for bull trout. Any bull trout caught may not be removed from the water and must be released immediately.
BURBOT (Ling)	NONE	There is no harvest season for burbot. Any burbot caught may not be removed from the water and must be released immediately.
NORTHERN PIKE	5 6	
SALMON (Anadromous)		See Rules 500 to 599
STEELHEAD		See Rules 400 to 499
STURGEON	NONE	There is no harvest season for sturgeon. Any sturgeon caught may not be removed from the water and must be released immediately. Barbless hooks required.
TIGER MUSKIE	2	NONE under <del>34</del> 40 inches.
TROUT - includes the following trout family fishes brook, brown, cutthroat, golden, grayling, lake, (Mackinaw), rainbow, splake, sunapee; trout hybrids; and the landlocked forms of chinook, coho, Atlantic and kokanee (blueback) salmon.	6	In the aggregate of all species (see Magic Valley Southeast, Upper Snake regions for special cutthroat trout restrictions).
WALLEYE and SAUGER	5 6	In the aggregate of both species.
WHITEFISH	<del>50</del> 25	<del>50</del>
NONGAME SPECIES OF SPECIAL CONCERN - Shoshone, Wood River and Bear Lake sculpin, sand-roller, leatherside chub, Pacific lamprey.	NONE	May not be taken or possessed.
All Species other than those listed above.	NO LIMIT	

~~(7-1-99)~~(12-8-03)T

**05. Family Fishing Waters.** Waters designated as Family Fishing Waters shall have a year round season: a general bag limit for trout, bass, walleye and pike; no length limits; and allow the use of standard fishing gear. Pursuant to Section 36-105(3), Idaho Code, the Commission sets seasons and regional exceptions, including designated Family Fishing Waters, by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (12-8-03)T

**056. Special Limits.** No person shall fish in any waters while having fish in possession in excess of the limits for those waters. (7-1-99)

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## DEPARTMENT OF FISH AND GAME Rules Governing Fish

Docket No. 13-0111-0401  
PENDING RULE

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203. -- 298. (RESERVED).

### 299. TWO POLE BAG AND POSSESSION LIMITS, SEASONS, WATERS, AND METHODS OF GEAR.

**01. Bag And Possession Limits.** Holders of the two (2) pole validation shall have the same bag and possession limit as the general bag and possession limits and regional exceptions whether using one (1) or two (2) poles. Please see Fishing brochure, which contains the Commission's proclamation setting seasons, bag, and possession limits, and regional exceptions. (3-30-01)

**02. Seasons.** The two (2) pole validation shall only be valid on waters which are open to fishing under the general fishing seasons and regional exceptions, ~~except two (2) poles or rods shall not be used to fish for adult anadromous fish (salmon or steelhead).~~ (7-1-99)(12-8-03)T

**03. Waters.** The two (2) pole validation is valid on all waters open to fishing under general rules and regional exceptions, ~~except not valid for adult anadromous fish.~~ (7-1-99)(12-8-03)T

**04. Methods And Gear.** The restrictions of Section 201 shall apply to the use of two (2) poles under the two (2) pole validation, except for the number of handlines or poles. (7-1-99)

### 300. GENERAL FISHING SEASONS.

The following general seasons apply to all waters of the state, except as listed in "Regional Exceptions". (3-20-97)

**01. Lakes, Ponds And Reservoirs (Including Alpine Lakes).** Extends ONLY to the edge of flat waters, excluding small, unnamed irrigation diversion ponds, beaver ponds and mill ponds.

OPEN ALL YEAR (3-20-97)

**02. Ditches And Canals.** Man-made structures used to transport water for irrigation or hydropower purposes.

OPEN ALL YEAR (3-20-97)

**03. Rivers And Streams.** Small, unnamed irrigation diversion ponds, beaver ponds and mill ponds have the same season as the river or stream on which they are located.

Saturday of Memorial Day Weekend through November 30

~~2000: May 27 - November 30~~

~~2001: May 26 - November 30~~

(3-30-01)(12-8-03)T

**04. General Whitefish Season.** Fishing gear or bait restrictions which apply to a river or stream section during the season open for other species apply during the whitefish season.

~~2000: January 1 - March 31 and: May 27 - December 1 - December 31~~

~~2001: January 1 - March 31 and: May 26 - December 31~~

# House Resource and Conservation Committee

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**DEPARTMENT OF FISH AND GAME**  
**Rules Governing Fish**

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**Docket No. 13-0111-0401**  
**PENDING RULE**

NOTE: Whitefish or brook trout may also be taken in any waters during seasons open for other species, including reduced bag limit or size restricted waters, closed to harvest, and catch-and-release waters. (3-30-01)(12-8-03)T

**05. General Steelhead Season.** See Rule Sections 400 through 499. (3-20-97)

**06. General Salmon Season.** See Rule Sections 500 through 599. (12-8-03)T

**067. Bullfrogs, Crayfish And Nongame Fish.** Bullfrogs, crayfish, and nongame fish may be taken ONLY during the season set for the taking of game fish in those waters. (3-20-97)

## (BREAK IN CONTINUITY OF SECTIONS)

### **401. STEELHEAD DEFINITION.**

See Subsection 004.26.

(12-8-03)T

~~**01. Steelhead.** Rainbow trout longer than twenty (20) inches in length in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage (excluding lakes and the Pahsimeroi and Lemhi rivers), and the Clearwater River drainage (excluding that portion above Dworshak Dam and lakes). In the Snake River from Hells Canyon Dam upstream to Oxbow Dam, and in the Boise River from its mouth upstream to Barber Dam, and in the Payette River from its mouth upstream to Black Canyon Dam, during steelhead seasons, rainbow trout longer than twenty (20) inches in length with the adipose fin missing (as evidenced by a healed scar) are defined as steelhead.~~ (3-20-97)

### **402. STEELHEAD LICENSES, TAGS AND PERMITS.**

**01. Licenses.** Any person fishing for steelhead, except those expressly exempt, must have in his or her possession a valid fishing license and a steelhead permit. ~~Any person who does not qualify as a resident must purchase either a Nonresident Three Day Fishing License with Steelhead Permit or a nonresident season fishing license and a full season steelhead permit.~~

(3-20-97)(12-8-03)T

**02. Permits.** Any person fishing for, reducing to possession, or catching and releasing steelhead must have a valid steelhead permit in his or her possession. However, when a steelhead is immediately released unharmed, as in no harvest fishing, the angler is not required to make an entry on the permit. (3-20-97)

### **403. PERMIT VALIDATION.**

When a steelhead trout has been hooked, landed, and reduced to possession, the angler hooking the fish must immediately do the following: (3-20-97)

**01. Permit.** Completely remove one (1) numbered notch from the permit. (3-20-97)

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**02. Number Code.** Look up the number code from the location code list and write it in the space provided.

RIVER LOCATION CODES	
<b>SNAKE RIVER</b>	
Snake River, <del>below</del> <u>downstream from</u> Salmon River	01
Snake River, <del>above</del> <u>upstream from</u> Salmon River	02
Snake River, <u>Hells Canyon Dam to Oxbow Dam</u>	27
<b>CLEARWATER RIVER</b>	
Clearwater River, <del>below</del> <u>downstream from</u> Orofino Bridge	03
Clearwater River, <del>above</del> <u>upstream from</u> Orofino Bridge	04
North Fork Clearwater River	05
South Fork Clearwater River	07
<b>SALMON RIVER</b>	
Salmon River, <del>below</del> <u>downstream from</u> Whitebird Creek	10
Salmon River, Whitebird Creek to Little Salmon	11
Salmon River, Little Salmon to Vinegar Creek	12
Salmon River, Vinegar Creek to South Fork	13
Salmon River, South Fork to Middle Fork	14
Salmon River, Middle Fork to North Fork	15
Salmon River, North Fork to Lemhi River	16
Salmon River, Lemhi River to Pahsimeroi River	17
Salmon River, Pahsimeroi River to East Fork	18
Salmon River, <del>above</del> <u>upstream from</u> the East Fork	19
<b>OTHER</b>	
Little Salmon River	20
<u>Panther Creek</u>	<u>24</u>
Boise River	28
Payette River	29

~~(3-20-97)~~(12-8-03)T

**03. Date Entry.** Enter the month and day the fish was caught ~~(3-20-97)~~(12-8-03)T

**(BREAK IN CONTINUITY OF SECTIONS)**



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### DEPARTMENT OF FISH AND GAME Rules Governing Fish

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#### 405. STEELHEAD METHODS OF TAKE.

**01. Hooks.** Steelhead may be taken only with barbless hooks in the Salmon, Clearwater, and Snake River drainages. Bending the barb down to the shank of a single, double, or treble hook will meet this requirement. Steelhead may be taken with barbed hooks in the Boise and Payette River drainages, and the Snake River between Hells Canyon and Oxbow Dams.

(3-20-97)(12-8-03)T

**02. Snagging.** No person shall kill or retain in possession any steelhead which has been hooked other than in the head mouth or jaw. Any steelhead hooked other than in the head mouth or jaw must be immediately released unharmed.

(3-20-97)(12-8-03)T

**03. Legal Catch.** Any steelhead caught in a legal manner must be either released or killed immediately after it is landed.

(3-20-97)

**04. ~~Restrictions And Legal Limit~~ Cease Fishing.** Once an angler has attained his bag, possession or season limit on those waters with steelhead limits, he must cease fishing for steelhead, including catch-and-release fishing, ~~EXCEPT in those river sections with a daily limit of one (1) steelhead per day, anglers may continue to fish on a catch-and-release basis only.~~

(3-20-97)(12-8-03)T

**05. No Harvest Or Closed To Harvest.** Effort, by permitted methods, to catch or attempt to catch a steelhead is lawful with the restriction that any steelhead so caught must be released immediately, unharmed, back to the water.

(3-20-97)

**06. Keeping Marked Fish.** Only steelhead which have been marked by clipping the adipose fin, as evidenced by a HEALED scar may be kept in the Salmon, Clearwater, and Snake River drainage.

(3-20-97)

**07. Fish Counted in Limit.** All fish that are hooked, landed, and not immediately released shall be counted in the limits of the person hooking the fish.

(3-20-97)

**08. Special Limits.** No person shall fish in waters having special limits while possessing fish of those species in excess of the special limits.

(3-20-97)

**09. ~~One Rod.~~** ~~Only one (1) rod or pole may be used to fish for steelhead, even if you have purchased a two-pole validation.~~

(3-30-01)

#### (BREAK IN CONTINUITY OF SECTIONS)

#### 501. SALMON DEFINITIONS.

**01. Chinook Salmon.** Anadromous (ocean run) salmon of the species *Oncorhynchus tshawytscha* in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and the Clearwater River drainage, (excluding lakes and the North Fork of the Clearwater River

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above Dworshak Dam), and the Boise and Payette River Drainages. ~~(3-20-97)~~(12-8-03)T

**02. Jack Salmon.** Chinook salmon under twenty (20) inches in total length are commonly called jack salmon. (3-20-97)

#### 502. SALMON LICENSES AND PERMITS.

**01. Licenses.** Any person fishing for salmon, except those expressly exempt, must have in his or her possession a valid fishing license. ~~Any person who does not qualify as a resident must purchase either a Nonresident Three Day Fishing License with a Salmon Permit or a nonresident season fishing license and a full season salmon permit.~~ ~~(3-20-97)~~(12-8-03)T

**02. Permits.** Any person fishing for, reducing to possession, or catching and releasing ~~e~~Chinook salmon must have a valid salmon permit in his or her possession. However, when a salmon is immediately released unharmed, the angler ~~is~~ not required to make an entry on the permit. ~~(3-20-97)~~(12-8-03)T

#### 503. PERMIT VALIDATION.

When a ~~e~~Chinook salmon has been hooked, landed, and reduced to permission, the angler hooking the fish must immediately complete the following: ~~(3-20-97)~~(12-8-03)T

**01. Permit.** Cut out and completely remove one (1) numbered notch from the permit. (3-20-97)

**02. Number Code.** Look up the number code from the location code list in Subsection 403.02 and write it in the space provided. ~~(3-20-97)~~(12-8-03)T

**03. Date Entry.** Enter in the space provided, the month, and day the fish was caught. (3-20-97)

#### 504. IDENTIFICATION OF SPECIES IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.

No person shall have in the field or in transit any ~~e~~Chinook salmon from which the head or tail has been removed. ~~(3-20-97)~~(12-8-03)T

#### 505. SALMON SPECIAL RESTRICTIONS.

**01. Method Of Take.** It is unlawful to use any hook larger than five-eighths (5/8) inch measured from the point of the hook to the shank. Salmon may be taken only with barbless hooks in the Salmon, Clearwater, and Snake River drainages. Bending the barb down to the shank of a single, double, or treble hook will meet this requirement. Salmon may be taken with barbed hooks in the Boise and Payette River drainages, and the Snake River between Hells Canyon and Oxbow Dams. ~~(3-20-97)~~(12-8-03)T

**02. Snagging.** No person shall kill or retain in possession any salmon which has been hooked other than in the mouth or jaw. Any salmon hooked other than in the mouth or jaw must be immediately released unharmed. (12-8-03)T

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**03. Legal Catch.** Any salmon caught in a legal manner must be either released or killed immediately after it is landed. (12-8-03)T

**024. Cease Fishing.** Once an angler has attained his bag, possession, or season limit on those waters with salmon limits, he must cease fishing for salmon. (3-20-97)

**05. No Harvest or Closed to Harvest.** Effort, by permitted methods, to catch or attempt to catch a salmon is lawful with the restriction that any salmon so caught must be released immediately, unharmed, back to the water. (12-8-03)T

**06. Keeping Marked Fish.** Only salmon which have been marked by clipping the adipose fin, as evidenced by a HEALED scar may be kept in the Salmon, Clearwater, and Snake River drainage. (12-8-03)T

**07. Fish Counted in Limit.** All fish that are hooked, landed, and not immediately released shall be counted in the limits of the person hooking the fish. (12-8-03)T

**08. Special Limits.** No person shall fish in waters having special limits while possessing fish of those species in excess of the special limits. (12-8-03)T

## House Resource and Conservation Committee

### IDAPA 13 - DEPARTMENT OF FISH AND GAME

#### 13.01.12 - COMMERCIAL FISHING IN THE STATE OF IDAHO

DOCKET NO. 13-0112-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-804, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The Rules Review Subcommittee of the House Resources and Conservation Committee asked the Commission to promulgate a new rule with certain changes regarding the use of nets to take Lake Trout. The proposed rule incorporated the requested changes and address the use of commercial fishing to reduce the numbers of Lake Trout as an option for fishery management in Lake Pend Oreille.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 305 through 309.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

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#### *The Following Notice Was Published With The Temporary And Proposed Rule*

**EFFECTIVE DATE:** The effective date of the temporary rule is April 26, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-804, Idaho Code.

## House Resource and Conservation Committee

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**DEPARTMENT OF FISH AND GAME**  
**Rules Governing Commercial Fishing**

**Docket No. 13-0112-0401**  
**PENDING RULE**

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**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**The Rules Review Subcommittee of the House Resources and Conservation Committee asked the Commission to promulgate a new rule with certain changes regarding the use of nets to take Lake Trout. These rules incorporate the requested changes and address the use of commercial fishing to reduce the numbers of Lake Trout as an option for fishery management in Lake Pend Oreille.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit allowing the Commission to respond to legislative direction, and allowing the Department of Fish and Game to continue its fishery management uninterrupted.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Commission is responding to legislative direction and the need for fishery management to continue uninterrupted.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Virgil Moore (208) 287-2771.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 5th day of August, 2004.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25, Boise, Idaho 83707

## House Resource and Conservation Committee

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### DEPARTMENT OF FISH AND GAME Rules Governing Commercial Fishing

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Docket No. 13-0112-0401  
PENDING RULE

(208) 334-3715, Fax (208) 334-2148

#### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

### 13.01.12 - RULES GOVERNING COMMERCIAL FISHING ~~IN THE STATE OF IDAHO~~

#### **000. LEGAL AUTHORITY.**

The Idaho Fish and Game Commission is authorized under Sections 36-104(b) and 36-804, Idaho Code, to adopt rules concerning commercial fishing. (4-26-04)T

#### **001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited in full as IDAPA 13.01.12.000, et seq., Rules of the Idaho Fish and Game Commission, IDAPA 13.01.12, “Rules Governing Commercial Fishing”. (4-26-04)T

**02. Scope.** These rules establish the criteria for commercial fishing in Idaho, identify waters where commercial fishing is allowed, and set standards for equipment. (4-26-04)T

#### **002. WRITTEN INTERPRETATIONS.**

This agency has no written interpretations of these rules. (4-26-04)T

#### **003. ADMINISTRATIVE APPEALS.**

All contested cases shall be governed by the provisions of IDAPA 13.01.01, “Rules of Practice and Procedure of the Idaho Fish and Game Commission,” and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General”. (4-26-04)T

#### **004. INCORPORATION BY REFERENCE.**

There are no documents which have been incorporated by reference into this rule. (4-26-04)T

#### **005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Idaho Fish and Game Commission and Idaho Department of Fish and Game is in Boise, Idaho. The Headquarters office is located at 600 South Walnut, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: P.O. Box 25, Boise, Idaho 83707. (4-26-04)T

#### **0006. -- 009. (RESERVED).**

#### **010. DEFINITIONS.**

**01. Commercial Fishing.** Fishing for, taking, or transporting fish or crustacea for the purpose of selling, bartering, exchanging, offering or exposing for sale. (7-1-93)

**02. Commercial ~~Non-Game~~ Fish Species.** Except as permitted by the Director of the Department of Fish and Game under Subsection 100.03 of this rule, only the following ~~non-game~~

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### DEPARTMENT OF FISH AND GAME Rules Governing Commercial Fishing

---

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**PENDING RULE**

fish species may be taken for commercial purposes:

~~(7-1-93)~~(4-26-04)T

- a. Bluehead sucker - *Catostomus discobolus*. (7-1-93)
- b. Bridgelip sucker - *Catostomus columbianus*. (7-1-93)
- c. Carp - *Cyprinus carpio*. (7-1-93)
- d. Chiselmouth - *Arocheilus alutaceus*. (7-1-93)
- e. Fathead minnow - *Pimephales promelas*. (7-1-93)
- f. Goldfish - *Carassius auratus*. (7-1-93)
- g. Lake chub - *Couesius plumbeus*. (7-1-93)
- h. Largescale sucker - *Catostomus macrochailus*. (7-1-93)
- i. Leatherside chub - *Gila copei*. (7-1-93)
- j. Leopard dace - *Rhinichthys falcatus*. (7-1-93)
- k. Longnose dace - *Rhinichthys cataractae*. (7-1-93)
- l. Mountain sucker - *Catostomus platyrhynchus*. (7-1-93)
- m. Northern squawfish - *Ptychocheilus oregonensis*. (7-1-93)
- o. Peamouth - *Mylocheilus caurinus*. (7-1-93)
- p. Redside shiner - *Richardsonius balteatus*. (7-1-93)
- q. Speckled dace - *Rhinichthys osculus*. (7-1-93)
- r. Tench - *Tinca tinca*. (7-1-93)
- s. Tui chub - *Gila bicolor*. (7-1-93)
- t. Utah chub - *Gila atraria*. (7-1-93)
- u. Utah sucker - *Catostomus ardens*. (7-1-93)
- v. Lake trout – *Salvelinus namaycush*. (4-26-04)T

**03. Commercial Crustacea Species.** Except as permitted by the Director of the Department of Fish and Game under Subsection 100.03, only the Crayfish - species of the genus *Pacifastacus*, may be taken for commercial purposes. (7-1-93)

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### DEPARTMENT OF FISH AND GAME Rules Governing Commercial Fishing

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011. -- 099. (RESERVED).

#### 100. LICENSES, TAGS AND PERMITS.

**01. Licenses.** Approved commercial gear may be set, operated, lifted or fished ONLY by the holder of a valid commercial fishing license to which the gear is registered or persons assisting in the presence of the licensee; except that any person assisting the holder of a commercial fishing license engaged in commercial fishing with the use of conventional rod and reel fishing tackle must either hold a commercial license or fishing license according to the Idaho Fish and Game Commission rules approved for sportfishing. The license must be in the possession of the licensee and made available at all times. ~~(7-1-93)~~(4-26-04)T

**02. Tags.** No person may set, operate, lift or fish commercial gear unless such gear has attached thereto valid commercial gear tags, except that no tags need be attached to conventional rod and reel fishing tackle used for commercial fishing. The Director of the Department of Fish and Game is authorized to issue special tags for experimental commercial gear under such conditions as the Director may deem appropriate. ~~(7-1-93)~~(4-26-04)T

**03. Permits.** The Director may issue permits authorizing the holder thereof to: (7-1-93)

- a. Commercially fish for non-game fish or crustacea not listed as commercial species. (7-1-93)
- b. Commercially fish in waters other than those listed in Section 700. (7-1-93)
- c. Such permits shall be valid for a period not to exceed one (1) year. (7-1-93)

**04. Revocation of Licenses and Permits.** The Director of the Department of Fish and Game is authorized to suspend, for a period not to exceed one (1) year, or revoke entirely, any commercial license or permit for violation of the Fish and Game Code or these rules by the licensee or persons acting under the licensee's direction and control. (7-1-93)

### **(BREAK IN CONTINUITY OF SECTIONS)**

**500. COMMERCIAL GEAR AND METHODS OF TAKE FOR FISH OR CRUSTACEA.** Fish or crustacea may be commercially harvested ONLY with the following gear and methods: (7-1-93)

- 01. With Seine Nets.** However, all seine nets must be either: (7-1-93)
  - a. Under constant attendance by the licensee or someone working under the supervision of the licensee; or (7-1-93)
  - b. If being used to hold fish, clearly marked with buoys that are at least twelve (12)



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### DEPARTMENT OF FISH AND GAME Rules Governing Commercial Fishing

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inches in diameter. (7-1-93)

**02. With Crayfish or Minnow Traps, Not Exceeding Three Feet in Any Dimension.** However, all crayfish and minnow traps must be lifted and emptied of catch at least once every ninety-six (96) hours except during periods of weather that pose a threat to human life, health or safety. (7-1-93)

**03. Experimental Gear.** With experimental gear approved by the Director pursuant to Subsection 100.02. (7-1-93)

**04. By Hand.** For crayfish ONLY, by hand. (7-1-93)

**05. Trawl Nets.** With trawl nets as approved by the Director. (7-1-93)

**06. Conventional Rod and Reel Fishing Tackle.** Only methods approved for sportfishing, as described in IDAPA 13.01.11, "Rules Governing Fish," are permitted, except that the holder of a commercial license may use more than two (2) lines while commercially fishing. (4-26-04)T

### (BREAK IN CONTINUITY OF SECTIONS)

#### **700. COMMERCIAL FISHING AREAS.**

Commercial harvest is allowed only in the following areas: (7-1-93)

**01. For Seine Nets.** Seine nets with a mesh greater than one and one half (1 1/2") square may be used ONLY in the following waters, except as approved by the Director for other waters on an experimental basis pursuant to Subsection 100.03.b.: (7-1-93)

**a.** Snake River and main stem impoundments from Hells Canyon Dam upstream to the confluence of the North and South Forks. (7-1-93)

**b.** Ashton Reservoir. (7-1-93)

**c.** Palisades Reservoir. (7-1-93)

**d.** Lake Lowell. (7-1-93)

**e.** Black Canyon Reservoir. (7-1-93)

**f.** Blackfoot Reservoir. (7-1-93)

**g.** Mud Lake. (7-1-93)

**h.** Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. (7-1-93)

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**DEPARTMENT OF FISH AND GAME**  
**Rules Governing Commercial Fishing**

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**Docket No. 13-0112-0401**  
**PENDING RULE**

**02. Minnow Traps.** Minnow traps for commercial fish may be ONLY used in the following areas, except as approved by the Director for other waters on an experimental basis pursuant to Subsection 100.03.b. (7-1-93)

**a.** Snake River excluding main stem impoundments from Weiser upstream to the confluence of the North and South Forks. (7-1-93)

**b.** Ashton Reservoir. (7-1-93)

**c.** Palisades Reservoir. (7-1-93)

**d.** Black Canyon Reservoir. (7-1-93)

**e.** Blackfoot Reservoir. (7-1-93)

**f.** Mud Lake. (7-1-93)

**g.** Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. (7-1-93)

**03. Crayfish Traps.** Crayfish traps for commercial crustacea may be used ONLY in the following areas, except as approved by the Director for other waters on an experimental basis pursuant to Subsection 100.03.b.: (7-1-93)

**a.** Snake River and main stem impoundments from Hells Canyon Dam upstream to the confluence of the North and South Forks. (7-1-93)

**b.** Black Canyon Reservoir. (7-1-93)

**c.** Blackfoot Reservoir. (7-1-93)

**d.** Mud Lake. (7-1-93)

**e.** Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. (7-1-93)

**04. Rod and Reel for Lake Trout Only.** (4-26-04)T

**a. Lake Pend Orielle.** (4-26-04)T

## House Resource and Conservation Committee

### IDAPA 13 - DEPARTMENT OF FISH AND GAME

#### 13.01.13 - RULES GOVERNING THE TAKING OF MIGRATORY BIRDS IN THE STATE OF IDAHO

DOCKET NO. 13-0113-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1102(b), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule made biennial season settings and adjustments, and established an area closed to hunting at Mann's Lake in Nez Perce County.**

**The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 310 through 312.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

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#### *The Following Notice Was Published With The Temporary And Proposed Rule*

**EFFECTIVE DATE:** The effective date of the temporary rule is April 28, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-1102(b), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be

## House Resource and Conservation Committee

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**DEPARTMENT OF FISH AND GAME**  
**Rules Governing the Taking of Migratory Birds****Docket No. 13-0113-0401**  
**PENDING RULE**

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scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Changes chapter name. Biennial season setting and adjustments. Establish an area closed to hunting at Mann's Lake in Nez Perce County.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to hunters and continues the hunting season without interruption.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the hunting season without interruption and publish the Migratory Bird Season Proclamation Brochure.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Don Kemner (208) 287-2748.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707  
(208) 334-3715  
Fax (208) 334-2148

# House Resource and Conservation Committee

**DEPARTMENT OF FISH AND GAME**  
**Rules Governing the Taking of Migratory Birds**

**Docket No. 13-0113-0401**  
**PENDING RULE**

## THE FOLLOWING IS THE TEXT OF THE PENDING RULE

### 13.01.13 - RULES GOVERNING THE TAKING OF ~~MIGRATORY BIRDS~~ AMERICAN CROW IN THE STATE OF IDAHO

#### 000. LEGAL AUTHORITY.

The Idaho Fish and Game Commission is authorized under Sections 36-104(b) and 36-1102(b), Idaho Code, to adopt rules concerning the taking of ~~migratory birds~~ American (common) crows in the state of Idaho. (5-3-03)(4-28-04)T

#### 001. TITLE AND SCOPE.

**01. Title.** These rules shall be cited in full as IDAPA 13.01.13.000, et seq., Idaho Fish and Game Commission Rules IDAPA 13.01.13, "Rules Governing the Taking of ~~Migratory Birds~~ American Crow in the State of Idaho". (5-3-03)(4-28-04)T

**02. Scope.** These rules establish the methods of take, seasons, and possession limits for ~~migratory birds~~ American (common) crows in the state of Idaho. (5-3-03)(4-28-04)T

## (BREAK IN CONTINUITY OF SECTIONS)

#### 010. DEFINITIONS.

~~Migratory birds~~ American (common) crows are defined as the following species: The American (common) crow: *Corvus brachyrhynchos*. (7-1-93)(4-28-04)T

#### 011. -- 099. (RESERVED).

#### 100. ~~MIGRATORY BIRDS~~ AMERICAN CROW METHODS OF TAKE.

No person shall take ~~migratory birds~~ American (common) crow: (7-1-93)(4-28-04)T

**01. Time.** From one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise. (7-1-93)

**02. Type of Take.** With trap, snare, net, rifle, pistol or a shotgun using shells exceeding three and one-half (3-1/2) inches maximum length. (7-1-93)

**03. Position.** From boats or other craft having a motor attached UNLESS the motor is completely shut off and forward progress has ceased, or the boat is drifting naturally or it is propelled only by paddle, oars, or pole, or it is beached, moored, or resting at anchor. (7-1-93)

#### 101. -- 199. (RESERVED).

#### 200. AREAS CLOSED TO HUNTING OF ~~MIGRATORY BIRDS~~ AMERICAN CROW.

## House Resource and Conservation Committee

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### DEPARTMENT OF FISH AND GAME Rules Governing the Taking of Migratory Birds

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Hunting, killing, or molesting of any ~~migratory bird~~ American (common) crow is prohibited in the following areas: (7-1-93)(4-28-04)T

**01. Craters of the Moon National Monument.** That area of Craters of the Moon National Monument in Blaine and Butte Counties; prior to the November 2000 expansion by Presidential decree. It is the hunter's responsibility to check with the Park Service to be able to identify the closed area. (7-1-93)(4-28-04)T

**02. Hagerman Fossil Beds National Monument.** Hagerman Fossil Beds National Monument in Twin Falls County, EXCEPT that portion within an area fifty (50) feet in elevation above the high water level of the Snake River (the upslope area is marked by yellow fiberglass markers, and hunting is permitted downslope to the river). (7-1-98)

**03. Harriman State Park Wildlife Refuge.** Harriman State Park Wildlife Refuge in Fremont County; (7-1-93)

**04. Nez Perce National Historical Park.** Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties; (7-1-93)

**05. Ada County.** That portion of Ada County within Veterans Memorial Park and the area between State Highway 21, Warm Springs Avenue and the Boise City limits; (5-3-03)

**06. Yellowstone National Park.** Yellowstone National Park in Fremont County; and (7-1-93)

**07. Mann's Lake.** Mann's Lake in Nez Perce County and extending three hundred (300) yards beyond the Bureau of Reclamation property that encompasses the lake. (4-28-04)T

**078. Other Locations.** On any of those portions of federal refuges, State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which bird hunting closures have been declared by legislative or Commission action. (7-1-93)

**201. -- 299. (RESERVED).**

### **300. ~~MIGRATORY BIRD~~ AMERICAN CROW SEASONS, BAG AND POSSESSION LIMITS.**

~~The following seasons, bag and possession limits apply STATEWIDE:~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (7-1-93)(4-28-04)T

~~**01. Seasons.** Seasons for taking migratory birds are:~~ (7-1-93)

~~**a.** October 1 through January 31 annually.~~ (9-7-94)

~~**02. Limits.** There are no daily bag or possession limits on migratory birds.~~ (9-7-94)

## House Resource and Conservation Committee

### IDAPA 13 - DEPARTMENT OF FISH AND GAME

#### 13.01.14 - RULES GOVERNING FALCONRY IN THE STATE OF IDAHO

DOCKET NO. 13-0114-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 36-104(b) and 36-1102(c), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule made biennial season settings and rule adjustments.**

**The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 314 through 316.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

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***The Following Notice Was Published With The Temporary And Proposed Rule***

**EFFECTIVE DATE:** The effective date of the temporary rule is April 28, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-1102(c), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

## House Resource and Conservation Committee

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**DEPARTMENT OF FISH AND GAME**  
**Rules Governing Falconry in the State of Idaho**

**Docket No. 13-0114-0401**  
**PENDING RULE**

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The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Biennial season setting and rule adjustments.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to falconers and allows the hunting seasons to continue without interruption.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the hunting seasons uninterrupted and to publish the Falconry Season Proclamation Brochure.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Don Kemner (208) 287-2748.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707  
(208) 334-3715  
Fax (208) 334-2148

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE



## House Resource and Conservation Committee

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### DEPARTMENT OF FISH AND GAME Rules Governing Falconry in the State of Idaho

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#### 600. FALCONRY SEASONS, BAG AND POSSESSION LIMITS FOR UPLAND GAME BIRDS.

~~For season dates, bag and possession limits during the firearms seasons, see Game Bird Rules, IDAPA 13.01.09. The season, bag and possession limits during the falconry only seasons are as follows:~~ (7-1-93)

**01. Upland Game Birds.** (pheasants -- all varieties, gray partridge, chukar partridge, bobwhite quail, California quail, forest grouse -- blue, ruffed, spruce; sage grouse, sharp-tailed grouse): (10-26-94)

**a.** All counties or parts of counties which have a firearms season for a certain species are also open to hunting by falconry for that species. (10-26-94)

**b.** ~~Seasons:~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (7-1-93)(4-28-04)T

~~i. August 15 to the opening of the firearms season and from the close of the firearms season through March 15 annually.~~ (10-26-94)

~~e. Daily bag limit: three (3) of any kind and shall not include more than one (1) pheasant (male or female), one (1) sage grouse, or one (1) sharp-tailed grouse.~~ (7-1-98)

~~d. Possession limit after the first day of the season: six (6) of any kind and shall not include more than two (2) pheasants (male or female), two (2) sage grouse or two (2) sharp-tailed grouse.~~ (7-1-98)

601. -- 609. (RESERVED).

#### 610. FALCONRY SEASONS, BAG AND POSSESSION LIMITS FOR UPLAND GAME ANIMALS.

~~The following seasons, bag and possession limits shall apply statewide:~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (10-26-94)(4-28-04)T

~~01. Rabbit.~~ The cottontail rabbit season is March 1 through August 31, annually. (5-3-03)

~~02. Hare.~~ The snowshoe hare season is March 1 through August 31, annually. (10-26-94)

~~03. Bag Limit.~~ Daily bag limit is two (2) of any kind. (7-1-98)

~~04. Possession Limit.~~ After the first day of the season: four (4) of any kind. (7-1-98)

611. -- 619. (RESERVED).

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### DEPARTMENT OF FISH AND GAME Rules Governing Falconry in the State of Idaho

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#### 620. FALCONRY ~~Seasons, Bag And Possession Limits~~ FOR MIGRATORY GAME BIRDS.

**01. Ducks Including Mergansers and American Coot.** Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(8-22-94)(4-28-04)T~~

**a.** Area 1 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 1 and includes the following counties or portions of counties: ~~(8-22-94)~~

~~i.~~ Bannock; Bingham EXCEPT that portion within the Blackfoot Reservoir drainage; Power east of State Highway 37 and State Highway 39; and, all lands, including private holdings, within the Fort Hall Indian Reservation. ~~(8-22-94)(4-28-04)T~~

~~ii.~~ ~~Area 1 season for ducks (including mergansers) and American coot: CLOSED.~~  
~~(7-1-99)~~

**b.** Area 2 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 2 and includes the following counties or portions of counties: ~~(8-22-94)~~

~~i.~~ Adams; Bear Lake; Benewah; Bingham within the Blackfoot Reservoir drainage; those portions of Blaine west of State Highway 75, south and east of U.S. Highway 93, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 outside the Silver Creek drainage; Bonner; Bonneville; Boundary; Butte; Camas; Caribou EXCEPT the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Clearwater; Custer; Elmore within the Camas Creek drainage; Franklin; Fremont; Idaho; Jefferson; Kootenai; Latah; Lemhi; Lewis; Madison; Nez Perce; Oneida; Power within the Minidoka National Wildlife Refuge; Shoshone; Teton; and Valley Counties. ~~(8-22-94)(4-28-04)T~~

~~ii.~~ ~~Area 2 season for ducks (including mergansers) and American coot: CLOSED.~~  
~~(7-1-99)~~

**c.** Area 3 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 3 and includes the following counties or portions of counties: ~~(8-22-94)~~

~~i.~~ Ada; those portions of Blaine between State Highway 75 and U.S. Highway 93 south of U.S. Highway 20, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 within the Silver Creek drainage; Boise; Canyon; Cassia EXCEPT the Minidoka National Wildlife Refuge; Elmore EXCEPT the Camas Creek drainage; Gem; Gooding; Jerome; Lincoln; Minidoka; Owyhee; Payette; Power west of State Highway 37 and State Highway 39 EXCEPT the Minidoka National Wildlife Refuge; Twin Falls; and Washington Counties. ~~(8-22-94)(4-28-04)T~~

~~ii.~~ ~~Area 3 season for ducks (including mergansers) and American coot: CLOSED.~~  
~~(7-1-99)~~

**02. Mourning Dove.** (8-22-94)

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**DEPARTMENT OF FISH AND GAME**  
**Rules Governing Falconry in the State of Idaho**

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**Docket No. 13-0114-0401**  
**PENDING RULE**

a. All counties or portions of counties which have a mourning dove season are open to hunting by falconry. (8-22-94)

b. ~~Season for doves: November 1 through January 16, annually.~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(7-1-98)(4-28-04)T~~

**03. Bag and Possession Limits.** (8-22-94)

a. Daily bag limit is three (3) of any kind. (7-1-98)

b. Possession limit after the first day of the season is six (6) of any kind. (7-1-98)

**621. -- 629. (RESERVED).**

**630. FALCONRY SEASONS, BAG AND POSSESSION LIMITS FOR MIGRATORY BIRDS.**

~~Seasons, bag and possession limits shall apply as follows:~~ Migratory birds may be taken by falconry ONLY during the firearms season. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(7-1-93)(4-28-04)T~~

## House Resource and Conservation Committee

### IDAPA 13 - DEPARTMENT OF FISH AND GAME

#### 13.01.16 - THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS

DOCKET NO. 13-0116-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101(a), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule made biennial season settings and rule adjustments, provided a definition of bait, clarified the otter reporting requirement and increased the reimbursement for certain nontarget animals. It also clarified a closure area.**

**The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 318 through 322.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

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#### *The Following Notice Was Published With The Temporary And Proposed Rule*

**EFFECTIVE DATE:** The effective date of the temporary rule is April 28, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-1101(a), Idaho Code.

## House Resource and Conservation Committee

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**DEPARTMENT OF FISH AND GAME**  
**Trapping of Predatory and Unprotected Wildlife**

**Docket No. 13-0116-0401**  
**PENDING RULE**

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**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Biennial season setting and rule adjustment. Provide a definition of bait. Clarify the otter reporting requirement and increase the reimbursement for certain nontarget animals. Clarify a closure area.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to trappers and hunters, and allows the seasons to continue uninterrupted.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the seasons without interruption and publish the Furbearers, Predators and Unprotected Species Season Proclamation Brochure.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Don Kemner (208) 287-2748.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707  
(208) 334-3715

# House Resource and Conservation Committee

**DEPARTMENT OF FISH AND GAME**  
**Trapping of Predatory and Unprotected Wildlife**

**Docket No. 13-0116-0401**  
**PENDING RULE**

Fax (208) 334-2148

## THE FOLLOWING IS THE TEXT OF THE PENDING RULE

### 010. DEFINITIONS.

**01. Furbearing Animals.** Furbearing animals are defined as the following species:  
(7-1-93)

**a.** Marten--*Martes americana*. (7-1-93)

**b.** Fisher--*Martes pennanti*. (7-1-93)

**c.** Mink--*Mustela vison*. (7-1-93)

**d.** Otter--*Lontra canadensis*. (3-30-01)

**e.** Beaver--*Castor canadensis*. (7-1-93)

**f.** Muskrat--*Ondatra zibethicus*. (7-1-93)

**g.** Bobcat--*Felis rufus*. (7-1-93)

**h.** Lynx--*Felis lynx*. (7-1-93)

**i.** Red Fox--*Vulpes vulpes*, and includes all color phases found in Idaho. (7-1-93)

**j.** Raccoon--*Procyon lotor*. (7-1-93)

**k.** Badger--*Taxidea taxus*. (7-1-93)

**02. Predatory Wildlife.** Predatory wildlife is defined as the following species:  
(7-1-93)

**a.** Coyote. (7-1-93)

**b.** Jackrabbit. (7-1-93)

**c.** Skunk. (7-1-93)

**d.** Weasel. (7-1-93)

**03. Unprotected Wildlife.** Unprotected wildlife is defined as all animals OTHER than those classified by the Fish and Game Commission as game animals, upland game animals, game birds, game fish, crustacea, migratory birds, furbearing animals, threatened or endangered wildlife, protected nongame wildlife or predatory wildlife.  
(7-1-93)

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**Trapping of Predatory and Unprotected Wildlife**

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**PENDING RULE**

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- 04.     Bait.** Bait is defined as any animal parts; except bleached bones or liquid scent.  
(4-28-04)T

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **200.   TRAPS.**

- 01.     Checking Traps.** (7-1-93)

**a.** No person shall place snares or traps for furbearing animals, predatory or unprotected wildlife, EXCEPT pocket gophers, ground squirrels and other unprotected rodents, without visiting every trap or snare once every seventy-two (72) hours and removing any catch therein. (7-1-93)

**b.** Trappers acting under authority of the U.S. Department of Agriculture, Animal Plant Health Inspection Service, Wildlife Services are exempt from this rule. (7-1-99)

**02.     Removing Trapped Animals of Another.** No person shall remove wildlife from the trap or snare of another EXCEPT licensed trappers with written permission from the owner. (7-1-93)

- 03.     Release of Non-Target Catches.** (7-1-93)

**a.** All non-target species caught alive shall be released immediately. Non-target species are defined as any species caught for which the season is closed. (7-1-93)

- b.** Any trapper who catches a non-target species that is dead shall: (7-1-93)

**i.** Prior to removing the animal, record the date and species of animal caught. This information must be included in the mandatory furtaker harvest report. (5-3-03)

- ii.** Remove the animal from the trap and take it into possession. (7-1-93)

**iii.** Notify the Department of Fish and Game through the local Conservation Officer, Subregional or Regional office within seventy-two (72) hours to make arrangements to transfer the animal to the Department. (10-26-94)

**iv.** The Department will reimburse trappers ~~five ten~~ dollars (\$~~5~~10) for each bobcat, lynx, wolverine, otter, or fisher caught accidentally and turned in. ~~(7-1-99)~~(4-28-04)T

### **(BREAK IN CONTINUITY OF SECTIONS)**

## House Resource and Conservation Committee

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### DEPARTMENT OF FISH AND GAME Trapping of Predatory and Unprotected Wildlife

Docket No. 13-0116-0401  
PENDING RULE

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#### 400. METHODS OF TAKE.

**01. Furbearing Animals.** No person shall take beaver, muskrat, mink, marten, or otter by any method other than trapping. In Valley County and portions of Adams County in the Little Salmon River drainage, red fox may be taken only by trapping. (5-3-03)

**02. Hunting.** No person hunting permissible furbearing animals or predatory or unprotected wildlife shall: (7-1-93)

**a.** Hunt with any weapon the possession of which is prohibited by state or federal law. (7-1-93)

**b.** Hunt with dogs unless they comply with IDAPA 13.01.15, "Rules Governing the Use of Dogs". (7-1-93)

**c.** Hunt any furbearing animal, except raccoon, with or by the aid of artificial light. (7-1-93)

**d.** No person hunting raccoon at night shall: (7-1-93)

**i.** Hunt from a motorized vehicle. (7-1-93)

**ii.** Use any light attached to any motor vehicle. (7-1-93)

**iii.** Hunt on private land without obtaining written permission from the landowner or lessee. (7-1-93)

**03. Trapping.** No person trapping furbearing animals or predatory or unprotected wildlife shall: (7-1-93)

**a.** Use for bait or scent, any part of ~~any~~ a domestic or wild origin game bird, game animal, game fish, or protected nongame wildlife. ~~(7-1-93)~~(4-28-04)T

**b.** Use any ~~dry land~~ set within thirty (30) feet of any visible bait ~~except bleached bones of furbearers, unprotected, or predatory wildlife.~~ ~~(7-1-93)~~(4-28-04)T

**c.** Use a dirt hole set with bait unless the person ensures that the bait remains covered at all times to protect raptors and other meat-eating birds from being caught accidentally. (7-1-93)

**d.** Use live animals as a bait or attractant. (4-28-04)T

#### 401. -- 499. (RESERVED).

#### 500. MANDATORY CHECK AND REPORT - PELT TAG REQUIREMENTS.

**01. Mandatory Check and Report.** Any person trapping river otter or taking bobcat, whether by hunting or trapping, must comply with the mandatory check and report and pelt tag requirements by: (5-3-03)



## House Resource and Conservation Committee

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### DEPARTMENT OF FISH AND GAME Trapping of Predatory and Unprotected Wildlife

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Docket No. 13-0116-0401  
PENDING RULE

a. Presenting the pelts of all bobcat taken to a regional office, the McCall office or official check point to obtain the appropriate pelt tag and complete a harvest report. To have a pelt tagged, the pelt must be legally taken in Idaho and must be presented to a regional office, the McCall office, or designated checkpoint of IDFG during normal working hours -- 8 a.m. to 5 p.m. (3-30-01)

b. Additional River Otter Requirements: (3-30-01)

i. Pelts must be tagged by IDFG personnel at the regional office in the region in which the animal was taken within seventy-two (72) hours of taking. Trappers unable to comply with the tagging requirements due to special or unique circumstances must report their harvest to the appropriate regional office or field personnel within seventy-two (72) hours and make arrangements for tagging at the proper regional office. Pelts not registered or presented to Department personnel within seventy-two (72) hours are subject to confiscation. (3-30-01)

ii. ~~Trappers must surrender the skull and possibly other organs or the entire carcass to the Department to aid in evaluating the harvest.~~ Otters harvested after the season has closed, or otters harvested in excess or a trapper's personal quota of two (2), must be turned into IDFG personnel. Check with the IDFG regional office for further information when reporting a harvest. ~~(5-3-03)~~(4-28-04)T

iii. No person shall have in possession, except during the open season and for seventy-two (72) hours after the close of the season, any raw otter pelt legally harvested in Idaho which does not have an official state export tag attached. (3-30-01)

**02. Pelt Tags.** A fee of two dollars (\$2) will be charged for each pelt tag. An additional one-dollar and fifty cent (\$1.50) vendor fee will be charged to each license holder when pelts are brought in for tagging. (3-30-01)

a. No person shall have in possession, except during the open season and for ten (10) days after the close of the season, any raw bobcat pelt which does not have an official state export tag attached (either Idaho's or another state's official export tag). (7-1-98)

b. No person shall sell, offer for sale, purchase, or offer to purchase any raw bobcat or otter pelt which does not have an official state export tag attached. (5-3-03)

### (BREAK IN CONTINUITY OF SECTIONS)

#### **650. AREAS CLOSED TO THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS.**

Hunting, trapping, killing or molesting of furbearing animals, predatory and unprotected wildlife is prohibited in the following areas: (7-1-93)

**01. Craters of the Moon.** That area of Craters of the Moon National Monument in

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Blaine and Butte Counties prior to the November 2000 expansion by Presidential decree. It is the trapper's/hunter's responsibility to check with the Park Service to be able to identify the closed area. ~~(7-1-98)(4-28-04)T~~

- 02. Hagerman Fossil Beds National Monument in Twin Falls County. (7-1-98)
- 03. Nez Perce National Historical Park. In Clearwater, Idaho, and Nez Perce Counties. (7-1-98)
- 04. Ada County. That portion of Ada County: (7-1-93)
  - a. Within Veterans Memorial Park; (7-1-93)
  - b. Within one quarter (1/4) mile of the Boise River from the New York Canal Diversion Dam downstream to the Glenwood Bridge; and (7-1-93)
  - c. Between State Highway 21 and the New York Canal from the New York Canal Diversion Dam downstream to the Boise City limits. (7-1-93)
- 05. Stanley Creek. Wildlife Interpretive Area in Custer County. (7-1-98)
- 06. Yellowstone National Park. In Fremont County. (7-1-98)
- 07. Other Areas. On any of those portions of State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which trapping closures have been declared by legislative or Commission action. (7-1-93)
- 08. National Wildlife Refuges. All or portions of national wildlife refuges, EXCEPT as specified in federal regulations for individual refuges. (7-1-93)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **750. SEASONS.**

01. **Restricted Fur-Bearing Animals.** There is NO open season for Fisher, Wolverine, Kit Fox, or Lynx. ~~(3-30-01)(4-28-04)T~~

02. ~~**Upland Game Brochure.** Please see the Upland Game brochure, which contains the Commission's proclamation setting seasons, bag, and possession limits.~~ **Proclamations.** Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(3-30-01)(4-28-04)T~~

## House Resource and Conservation Committee

### IDAPA 13 - DEPARTMENT OF FISH AND GAME

#### 13.01.19 - RULES FOR OPERATING, DISCONTINUING, AND SUSPENDING VENDORS

DOCKET NO. 13-0119-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-301, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule clarified and simplified the requirements and documentation for proving residency status for license sales.**

**The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 324 through 326.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

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#### *The Following Notice Was Published With The Temporary And Proposed Rule*

**EFFECTIVE DATE:** The effective date of the temporary rule is December 8, 2003.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 36-301, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an

## House Resource and Conservation Committee

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**DEPARTMENT OF FISH AND GAME**  
**Operating, Discontinuing, & Suspending Vendors**

**Docket No. 13-0119-0401**  
**PENDING RULE**

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agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Clarify and simplify the requirements and documentation for proving residency status for license sales.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to license buyers and license vendors by simplifying proof of residency requirements.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted due to the nature of the rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Jeff Seward (208) 287-2811.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 5th day of August, 2004.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707  
(208) 334-3715  
Fax (208) 334-2148

**THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

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**DEPARTMENT OF FISH AND GAME**  
**Operating, Discontinuing, & Suspending Vendors**

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**PENDING RULE**

### 130. ISSUING LICENSES AND TAGS.

**01. Identification Required.** A vendor shall receive proper identification as defined in Subsection 130.03 of this rule from each individual before issuing an Idaho resident license or tag. ~~Collector stamps, n~~Nonresident licenses, and daily fishing licenses do not require identification. (3-20-97)(12-8-03)T

**02. Ordering by Mail.** Licenses and tags also may be obtained by mail by forwarding to the Idaho Department of Fish and Game, License Section, PO Box 25, Boise, ID 83707, a legible copy of proper identification as described in Subsection 130.03 of this rule: (3-20-97)

**a.** Applications for mail-ordered licenses and tags shall be made on department forms obtainable from department offices and shall be postmarked on or before any deadlines that may have been established for issuance of such license or tag. (3-20-97)

**b.** The department may require additional information to assist with the completion of mail-ordered transactions. (3-20-97)

**c.** Licenses or tags shall not be issued until the required fee has been received by the department in the form of personal check or money order. (3-20-97)

**03. Proof of Residence.** The vendor shall ~~assure that sufficient~~ confirm proof of residence ~~is furnished~~ before issuing a resident license. In cases where the vendor cannot obtain suitable proof of residence, the vendor should NOT issue the license and refer the applicant to the local conservation officer or department office so that residency can be verified by the department. ~~Proper identification for resident documents include an Idaho driver's license or Idaho ID card. If a person drives and is applying for an Idaho resident Fish and Game license, they must provide a valid Idaho driver's license. A previous year's fish and game license is not acceptable proof of residency. If an applicant has neither and is not a minor child, then a combination of three pieces of identification are required bearing the name and address of the applicant, but not issued by himself, such as~~ Acceptable proof of residency is: (3-20-97)(12-8-03)T

**a.** A valid Idaho driver's license for all persons who drive. (12-8-03)T

**b.** Persons who have not been issued a driver's license, who do not drive and who are eighteen (18) years of age or older are required to prove residency by providing two (2) pieces of identification bearing the name and address of the applicant, but not issued by himself, acceptable documents are: (12-8-03)T

**i.** Idaho identification card. (12-8-03)T

**aii.** In the case of a minor child (under eighteen (18)) identification from a parent. (3-20-97)

**b.** Rent receipt or mortgage statement dated at least six (6) months prior. (3-20-97)

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**DEPARTMENT OF FISH AND GAME**  
**Operating, Discontinuing, & Suspending Vendors****Docket No. 13-0119-0401**  
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~~eiii.~~ Home electricity, gas, cable or phone utility bills dated at least six (6) months prior.  
(~~3-20-97~~)(12-8-03)T

~~d~~iv. Notarized statement from an employer on business letterhead. (3-20-97)

~~ev.~~ Proof of voter registration dated six (6) months prior. (3-20-97)

vi. A residency affidavit signed by the license purchaser. (12-8-03)T

**04. Completion of Form.** Vendor shall fill in all the information requested on the document, including the full name, complete address, gender, date of birth, and mark the box for the type of document for which applicant is applying. (3-20-97)

**05. Social Security Numbers.** Vendor shall ~~request voluntary~~ require disclosure of social security numbers for any person who purchases a license. The social security number shall be used only as a unique number to assist the department with matching licenses and tags sold to an individual. Disclosure of social security numbers to the department is ~~voluntary~~ required by Section 73-122, Idaho Code, and the department shall not use such numbers for any purpose other than that expressed herein. A person's social security number is considered confidential and will not be released to any person by the department. (~~3-20-97~~)(12-8-03)T

**06. Vendor Employees.** Any employee of the vendor may issue documents, provided that the employee is instructed as to all applicable statutes and regulations. Vendor is responsible for employee training and for any violation of applicable statutes and regulations committed by employees. (3-20-97)

**07. Resident Privileges.** No one can claim Idaho resident privileges while claiming resident privileges in another state (except military personnel). (3-20-97)

**08. Negligence.** The issuing vendor must be sure that the license information is complete and is recorded before the license sale is final. Negligence in obtaining proof of residence or completion of the application portion of the license could constitute grounds for suspension of a vendorship. (3-20-97)